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# THE
# GENERAL ORDINANCES
# OF
# THE NORTH-WEST TERRITORIES

IN FORCE SEPTEMBER 1, 1905.

Saskatchewan. Laws, statutes, etc.

*Being the Consolidated Ordinances of the Territories 1898 and all subsequent public general Ordinances of the Legislature of the Territories revised as affected by Ordinances in force at the commencement of The Saskatchewan Act.*

EDITOR,
REGINALD RIMMER
ADVOCATE

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# EDITOR'S NOTE.

In this edition of the Ordinances of the North-West Territories the object has been to include all Ordinances of public general utility in force at the commencement of *The Saskatchewan Act*.

The *alphabetical* arrangement of subjects has been adopted and is strictly adhered to as the most convenient and the only practical one in view of the mass of amendments to *The Consolidated Ordinances*.

Under each well-known heading the Ordinances are printed *chronologically*. *Italics* distinguish the portions of the principal Ordinances affected by subsequent amending Ordinances. Ordinances subsequent to the principal are printed in full except as to such portions as are expressly amending or repealing to which effect is given in revision of the principal Ordinances. To this rule there are the two next mentioned exceptions. Under the title "Judicature" Section 2 of Chapter 5 of the Ordinances of 1899 is printed as Section 17*a* of the principal Ordinance. Under the title "Public Printing" Section 3 of Chapter 5 of 1901 is printed as Section 7 of the principal Ordinance.

*The Chronological Table* explains more fully the disposition of each Ordinance passed by the Legislature from (and including) *The Consolidated Ordinances* to the commencement of *The Saskatchewan Act*.

The *Appendix* comprises such portions of the Dominion Statutes as are of most practical necessity in connection with the Ordinance revised.

R. R.

# CHRONOLOGICAL TABLE

Showing the disposition, in this Edition, of the Consolidated Ordinances 1898, and all subsequent Ordinances made by the Legislative Assembly of the North-West Territories.

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1898, c. 39 | Consolidated Ordinances | 15 Sept., 1898 | 200 | All printed. |
| C.O. 1898, c. 1 | Interpretation | 15 Mar., 1899 | 383 | The whole printed as amended in s. 8, cl. 19, by 1901, c. 2, s. 1, and cl. 43 by 1903, sess. 1, c. 3, s. 1. |
| " c. 2 | Legislative Assembly | " | 613 | The whole printed (except as to s. 1, and the schedule superseded by s. 13 of The Saskatchewan Act and schedule to that Act) as affected 1899, c. 2; 1902, c. 2; 1903, sess. 1, c. 4; and 1903, sess. 2, c. 2. |
| " c. 3 | Elections | " | 259 | The whole printed revised as affected 1899, c. 3, and 1902, c. 3. s. 10, par. 1, and ss. 106, 107, 108, 109, 110, 111, and 113 repealed 1899, c. 3, and certificates to Forms B, D, H and I in schedule 2 struck out by same Ord. |
| " c. 4 | Controverted Elections | " | 207 | The whole printed. |
| " c. 5 | Public Service | " | 962 | The whole printed as affected by c. 3 of 1901, which substitutes a par. for par. (g) of s. 4 q.v. |
| " c. 6 | Department of Attorney General | " | 22 | The whole printed. |
| " c. 7 | Department of Territorial Secretary | " | 1163 | The whole printed. |
| " c. 8 | Department of Agriculture | " | 13 | The whole printed. |
| " c. 9 | Department of Public Works | " | ------ | Omitted. Repealed 1901, c. 4, s. 78. |
| " c. 10 | Treasury and Audit | " | 1166 | The whole printed. |
| " c. 11 | Public Printing | " | 961 | The whole printed revised as affected 1901, c. 5 and 1901, c. 6. s. 3 of 1901, c. 5, printed as s. 7. |
| " c. 12 | Public Inquiries | " | 372 | The whole printed with subsection (2) added to s. 3, by 1903, sess. 1, c. 5, s. 1. |
| " c. 13 | Security by Public Officers | " | 1108 | The whole printed. |
| " c. 14 | Vital Statistics | " | 1245 | The whole printed with words added to s. 21 by s. 1 of 1900, c. 2. |
| " c. 15 | Expropriation | " | ------ | Omitted. Repealed 1901, c. 4, s. 78. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| C.O. 1898, c. 16 | Coal Mines Regulations | 15 Mar., 1899 | 70 | All printed as affected in s. 4, by 1899, c. 4, s. 1, and 1900, c. 3, s. 1. |
| " c. 17 | Steam Boilers Inspection | " | | Omitted. Repealed 1901, c. 7, s. 42. |
| " c. 18 | Ferries | " | | Omitted. Repealed 1901, c. 4, s. 78. |
| " c. 19 | Public Health | " | | Omitted. Repealed 1902, c. 4, s. 28. |
| " c. 20 | Hospitals | " | | Omitted. Repealed 1901, c. 8, s. 9. |
| " c. 21 | Judicature | " | 426 | The whole printed as affected by 1899, c. 5; 1901, c. 10; 1902, c. 5; 1903, sess. 1, c. 8, and 1903, sess. 2, c. 6. The portions affected are: s. 7a added 1903, sess. 2, c. 6, s. 2; s. 10, cl. 12, words added. 1901, c. 10, s. 1; s. 17, subsec. (2) added. 1899, c. 5, s. 1; s. 17a added is original s. 2. of 1899, c. 5.<br>Rule of court 18, cl. 9. added 1901, c. 10, s. 2; r. 99. proviso added 1901, c. 10, s. 3; r. 224, subrules 2 and 3 added 1902, c. 5, s. 1; r. 225 subs. by 1901, c. 10, s. 4; r. 287a added 1902, c. 5, s. 2; r. 287b added 1903, sess. 1, c. 8, s. 1; r. 388, subrule 2. words struck out and substituted 1901, c. 10, s. 5; r. 397, subrule 2 added 1903, sess. 1, c. 8, s. 2; r. 427 cl. 4 struck out 1901, c. 10, s. 6; r. 429, subrule 2 added 1901, c. 10, s. 7; r. 430, cl. 3 added 1901, c. 10. s. 8; r. 432 substituted 1903, sess. 1, c. 8, s. 3; r. 456a added 1901, c. 10, s. 9; r. 469, subrule 2 added 1903, sess. 1, c. 8, s. 4; r. 472 substituted 1902, c. 5, s. 3; r. 510, words struck out 1903, sess. 1, c. 8, s. 5; r. 523, (a) and (b) added 1901, c. 10, s. 10; r. 536, words struck out 1903, sess. 1, c. 8, s. 6; r. 558, par. 1 amended by ss. 7 and 8, 1903, sess. 1, c. 8; r. 597, repd. in part substituted by 1903, sess. 1, c. 8, s. 9.<br>Form A amended 1901, c. 10, s. 11; Form C amended 1901, c. 10, s. 12 and 1902, c. 5, s. 4; Form F added 1901, c. 10, s. 13; Tariff of sheriffs' fees amended 1901, c. 10, s. 14. |

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|---|---|---|---|---|---|
| " | c. 22 | Clerks and Deputy Clerks | " | 62 | All printed as amended 1899, c. 6, 1900, c. 6 and 1901, c. 14. |
| " | c. 23 | Sheriffs and Deputy Sheriffs | " | 1118 | All printed (except s. 22 repealed 1900, c. 7, s. 1) as amended in ss. 27 and 28 by 1900, c. 7, ss. 2 and 3. |
| " | c. 24 | Commissioners | " | 93 | All printed. |
| " | c. 25 | Notaries Public | " | 894 | All printed as amended by 1903, sess. 1, c. 10. |
| " | c. 26 | Creditors' Relief | " | 217 | All printed. |
| " | c. 27 | Exemptions | " | 316 | All printed with amendment 1901, c. 16, s. 1, adding to s. 6. |
| " | c. 28 | Juries | " | 588 | All printed. |
| " | c. 29 | Alimony | " | 15 | All printed. |
| " | c. 30 | Slander | " | 1126 | All printed. |
| " | c. 31 | Limitation of Actions | " | 621 | All printed with s. added 1903, sess. 2, c. 7, s. 1. |
| " | c. 32 | Justices of the Peace | " | 722 | All printed (except s. 9, repealed by 1900, c. 8, s. 2) as amended in s. 5 by 1903, sess. 2, c. 10, s. 1, and s. 8 by 1900, c. 8, s. 1. |
| " | c. 33 | Constables | " | 205 | All printed. |
| " | c. 34 | Distress | " | 248 | All printed. |
| " | c. 35 | Arbitration | " | 15 | All printed. |
| " | c. 36 | Investigation of Fires | " | 394 | All printed. |
| " | c. 37 | Tenancy in Common | " | 1162 | All printed. |
| " | c. 38 | Religious Societies' Lands | " | 984 | All printed. |
| " | c. 39 | Sale of Goods | " | 989 | All printed. |
| " | c. 40 | Factors and Agents | " | 317 | All printed. |
| " | c. 41 | Choses in Action | " | 60 | All printed. |
| " | c. 42 | Preferential Assignments | " | 950 | All printed. |
| " | c. 43 | Mortgages and Sales of Personal Property | " | 32 | All printed except that subsec. (2) of s. 2 is substituted by 1900, c. 12, s. 1, and s. 17 amended by s. 2 of same. |
| " | c. 44 | Conditional Sales of Goods | " | 196 | Printed except ss. 3, 4 and 5 repealed 1903, sess. 2, s. 1. |
| " | c. 45 | Partnership Registration | " | 900 | All printed. |
| " | c. 46 | Marriage | " | 729 | Printed as amended in s. 3 by 1901, c. 17, s. 1; s. 11 and Form B by ss. 1 and 2 of 1903, s. 1, c. 11; and throughout by s. 3 of the same. |
| " | c. 47 | Married Women's Property | " | 740 | All printed. |
| " | c. 48 | Compensation for Injuries | " | 195 | All printed. |
| " | c. 49 | Insurance for Wife and Children | " | 376 | All printed. |
| " | c. 50 | Masters and Servants | " | ------ | Omitted. Repealed 1904, c. 3, s. 8. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| C.O. 1898, c. 1 | Coal Mines Regulations | 15 Mar., 1899 | 70 | All printed as affected in s. 4, by 1899, c. 4, s. 1, and 1900, c. 3, s. 1. |
| " c. 17 | Steam Boilers Inspection | " | ------ | Omitted. Repealed 1901, c. 7, s. 42. |
| " c. 1 | Ferries | " | ------ | Omitted. Repealed 1901, c. 4, s. 78. |
| " c. 1 | Public Health | " | ------ | Omitted. Repealed 1902, c. 4, s. 28. |
| " c. 2 | Hospitals | " | ------ | Omitted. Repealed 1901, c. 8, s. 9. |
| " c. 21 | Judicature | " | 426 | The whole printed as affected by 1899, c. 5; 1901, c. 10; 1902, c. 5; 1903, sess. 1, c. 8, and 1903, sess. 2, c. 6. The portions affected are: s. 7a added 1903, sess. 2, c. 6, s. 2; s. 10, cl. 12, words added. 1901, c. 10, s. 1; s. 17, subsec. (2) added. 1899, c. 5, s. 1; s. 17a added is original s. 2. of 1899, c. 5.<br>Rule of court 18, cl. 9. added 1901, c. 10, s. 2; r. 99. proviso added 1901, c. 10, s. 3; r. 224, subrules 2 and 3 added 1902, c. 5, s. 1; r. 225 subs. by 1901, c. 10, s. 4; r. 287a added 1902, c. 5, s. 2; r. 287b added 1903, sess. 1, c. 8, s. 1; r. 388, subrule 2, words struck out and substituted 1901, c. 10, s. 5; r. 397, subrule 2 added 1903, sess. 1, c. 8, s. 2; r. 427 cl. 4 struck out 1901, c. 10, s. 6; r. 429, subrule 2 added 1901, c. 10, s. 7; r. 430, cl. 3 added 1901, c. 10, s. 8; r. 432 substituted 1903, sess. 1, c. 8, s. 3; r. 456a added 1901, c. 10, s. 9; r. 469, subrule 2 added 1903, sess. 1, c. 8, s. 4; r. 472 substituted 1902, c. 5, s. 3; r. 510, words struck out 1903, sess. 1, c. 8, s. 5; r. 523, (a) and (b) added 1901, c. 10, s. 10; r. 536, words struck out 1903, sess. 1, c. 8, s. 6; r. 558, par. 1 amended by ss. 7 and 8, 1903, sess. 1, c. 8; r. 597, repd. In part substituted by 1903, sess. 1, c. 8, s. 9.<br>Form A amended 1901, c. 10, s. 11; Form C amended 1901, c. 10, s. 12 and 1902, c. 5. s. 4; Form F added 1901, c. 10, s. 13; Tariff of sheriffs' fees amended 1901, c. 10, s. 14. |

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|---|---|---|---|---|---|
| " | c. 22 | **Clerks and Deputy Clerks** | " | 62 | All printed as amended 1899, c. 6, 1900, c. 6 and 1901, c. 14. |
| " | c. 23 | **Sheriffs and Deputy Sheriffs** | " | 1118 | All printed (except s. 22 repealed 1900, c. 7, s. 1) as amended in ss. 27 and 28 by 1900, c. 7, ss. 2 and 3. |
| " | c. 24 | Commissioners | " | 93 | All printed. |
| " | c. 25 | Notaries Public | " | 894 | All printed as amended by 1903, sess. 1, c. 10. |
| " | c. 26 | Creditors' Relief | " | 217 | All printed. |
| " | c. 27 | Exemptions | " | 316 | All printed with amendment 1901, c. 16, s. 1, adding to s. 6. |
| " | c. 28 | Juries | " | 588 | All printed. |
| " | c. 29 | Alimony | " | 15 | All printed. |
| " | c. 30 | Slander | " | 1126 | All printed. |
| " | c. 31 | Limitation of Actions | " | 621 | All printed with s. added 1903, sess. 2, c. 7, s. 1. |
| " | c. 32 | Justices of the Peace | " | 722 | All printed (except s. 9, repealed by 1900, c. 8, s. 2) as amended in s. 5 by 1903, sess. 2, c. 10, s. 1, and s. 8 by 1900, c. 8, s. 1. |
| " | c. 33 | Constables | " | 205 | All printed. |
| " | c. 34 | Distress | " | 248 | All printed. |
| " | c. 35 | Arbitration | " | 15 | All printed. |
| " | c. 36 | Investigation of Fires | " | 394 | All printed. |
| " | c. 37 | Tenancy in Common | " | 1162 | All printed. |
| " | c. 38 | Religious Societies' Lands | " | 984 | All printed. |
| " | c. 39 | Sale of Goods | " | 989 | All printed. |
| " | c. 40 | Factors and Agents | " | 317 | All printed. |
| " | c. 41 | Choses in Action | " | 60 | All printed. |
| " | c. 42 | Preferential Assignments | " | 950 | All printed. |
| " | c. 43 | Mortgages and Sales of Personal Property | " | 32 | All printed except that subsec. (2) of s. 2 is substituted by 1900, c. 12, s. 1, and s. 17 amended by s. 2 of same. |
| " | c. 44 | Conditional Sales of Goods | " | 196 | Printed except ss. 3, 4 and 5 repealed 1903, sess. 2, s. 1. |
| " | c. 45 | Partnership Registration | " | 900 | All printed. |
| " | c. 46 | Marriage | " | 729 | Printed as amended in s. 3 by 1901, c. 17, s. 1; s. 11 and Form B by ss. 1 and 2 of 1903, s. 1, c. 11; and throughout by s. 3 of the same. |
| " | c. 47 | Married Women's Property | " | 740 | All printed. |
| " | c. 48 | Compensation for Injuries | " | 195 | All printed. |
| " | c. 49 | Insurance for Wife and Children | " | 376 | All printed. |
| " | c. 50 | Masters and Servants | " | ------ | Omitted. Repealed 1904, c. 3, s. 8. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| C.O. 1898, c. 51 | Legal Profession | 15 Mar., 1899 | 595 | Printed at length revised as affected 1899, c. 8; 1900, c. 14; 1901, c. 18 and 1904, c. 4. The portions affected are: s. 5, words inserted 1899, c. 8, s. 1; s. 5, proviso amended 1899, c. 8, s. 2; s. 5, proviso repealed 1904, c. 4, s. 1, to take effect July 1, 1906; s. 10 substituted 1900, c. 14, s. 1; s. 11 subtd. 1900, c. 14, s. 2; s. 36, subsecs. 2 to 7 added 1901, c. 18, s. 1; s. 38a added 1904, c. 4, s. 2; s. 41a added 1904, c. 4, s. 3; s. 44 words inserted 1899, c. 8, s. 3. For added provisions see 1899, c. 8, ss. 4, 5, 6, 7, 1903, sess. 2, c. 14 and 1904, c. 4, s. 4. |
| " c. 5 | Medical Profession | " | 760 | The whole printed as amended in ss. 14, 15 and 34 by 1903, sess. 1, c. 12 and s. 29 by 1900, c. 15. |
| " c. 5 | Dentistry | " | ------ | Omitted. Repealed 1903, sess. 2, c. 16, s. 74. |
| " c. 5 | Chemists and Druggists | " | 921 | All printed as amended in ss. 4, 10, 12, 17, 19, 33 and Form A in schedule, substituted 1902, c. 7. |
| " c. 5 | Veterinary Surgeons | " | 1218 | All printed as affected by 1899, c. 10 amending s. 4, and 1903, sess. 2, c. 17, repealing and substituting for s. 2, |
| " c. 5 | Hotels and Boarding Houses | " | 593 | All printed. |
| " c. 5 | Livery and Sale Stables | " | 693 | All printed. |
| " c. 5 | Auctioneers, Hawkers and Pedlers | " | 24 | The whole printed. |
| " c. 5 | Mechanics' Liens | " | 746 | The whole printed with cl. 4 added to s. 2 by 1903, sess. 2, c. 18. |
| " c. 6 | Threshers' Liens | " | 1165 | The whole printed revised as affected 1899, c. 11 and 1901, c. 19; s. 1, words added 1899, c. 11, and 1901, c. 19, s. 1; s. 2 words inserted 1899, c. 11, s. 2; s. 3 words inserted 1899, c. 11, s. 3; s. 4 added is s. 4, of 1899, c. 11. |
| " c. 6 | Companies | " | ------ | Omitted. Repealed 1901, c. 20, s. 150. |
| " c. 62 | Changing Names of Companies | " | ------ | Omitted. Repealed 1901, c. 20, s. 150; vide ss. 92 and 93 of 1901, c. 20 for existing provisions. |
| " c. 63 | Foreign Companies | " | ------ | Omitted. Expressly repealed 1903, sess. 1, c. 14, s. 18. |
| " c. 64 | Mining Companies | " | ------ | Omitted. Repealed 1901, c. 20, s. 150. |
| " c. 65 | Dairy Associations | " | 225 | The whole printed. |
| " c. 66 | Benevolent and Other Societies | " | 26 | The whole printed. |

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|---|---|---|---|---|---|
| " | c. 67 | Mechanics' and Literary Institutes | " | 742 | The whole printed. |
| " | c. 68 | Cemeteries | " | 53 | The whole printed. |
| " | c. 69 | Agricultural Societies | " | ------ | Omitted. Repealed 1899, c. 14, s. 31; vide now 1903, sess. 1, c. 17. |
| " | c. 70 | Municipalities | " | 775 | Printed in full revised as affected by the Ordinances of 1899, c. 15; 1900, c. 23; 1901, c. 23; 1902, c. 9; 1903, sess. 1, cc. 18 and 19; 1903, sess. 2, c. 22 and 1904, c. 6. For ss. affected vide: s. 9, subsec. (2) added 1903, sess. 1, c. 19, s. 1; s. 10, words struck out 1900, c. 23, s. 1; s. 22, words struck out 1902, c. 9, s. 1; s. 23, word struck out 1902, c. 9, s. 2; s. 40, par. 6, words substituted 1902, c. 9, s. 3; s. 47 repealed 1901, c. 23, s. 1; s. 48, repealed 1901, c. 23, s. 1; s. 49, repealed 1901, c. 23, s. 1; s. 50, repealed 1901, c. 23, s. 1; s. 51, repealed 1901, c. 23, s. 1; s. 52, repealed 1901, c. 23, s. 1; s. 53, repealed 1901, c. 23, s. 1; s. 90 amended 1902, c. 9, s. 4; s. 95, cl. 3, words added 1900, c. 23, s. 2; s. 95, cl. 9, substituted 1900, c. 23, s. 2; s. 95, cl. 19, words added 1900, c. 23, s. 2; s. 95, cl. 22, words added 1901, c. 23, s. 2; s. 95, cl. 40, words added 1901, c. 23, s. 3; s. 95, cl 53, substituted 1900, c. 23, s. 2; s. 95, cl 55, words inserted 1900, c. 23, s. 2; s. 95, cl. 70, amended 1902, c. 9, s. 5; s. 95, cl. 75, proviso added 1900, c. 23, s. 2; words inserted 1903, sess. 2, c. 22, s. 1; s. 95, cl. 76, added 1903, sess. 1, c. 19, s. 2; s. 95, cl. 77, added 1903, sess. 2, c. 22, s. 1; s. 108, words struck out 1902, c. 9, s. 6, words added 1900, c. 23, s. 3; s. 109, words struck out and words inserted 1901, c. 23, s. 4; s. 114, subsec. (2) added 1899, c. 15, s. 1; s. 118, subsec. (2) repealed and substituted 1903, sess. 1, c. 19, s. 3; s. 121, par. 1, substituted 1903, sess. 1, c. 18, s. 1; s. 121, par. 3, substituted 1903, sess. 1, c. 18, s. 1; s. 121, par. 12, repealed 1900, c. 23, s. 4; s. 121, par. 13, figures substituted 1903, sess. 1, c. 18, s. 1; s. 121, par. 17, added 1899, c. 15, s. 2; s. 128, words struck out 1901, c. 23, s. 5; s. 201, words inserted 1901, c. 23, s. 6; s. 202, words struck out and substituted 1901, c. 23, s. 7; s. 213, amended 1904, c. 6, s. 1; s. 215, amended 1901, c. 23, s. 8; s. 218, repealed 1904, c. 6, s. 2; s. 230, repealed 1901, c. 23, s. 9; s. 285, words struck out 1900, c. 23, s. 5. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| C.O. 1898, c. 71 | Assessment of Railways | 15 Mar., 1899 | 20 | The whole printed. |
| " c. 72 | Villages | " | ------ | Omitted. Repealed 1900, c. 25, s. 57; afterwards repealed 1901, c. 25, s. 64, q.v. |
| " c. 73 | Local Improvement | " | ------ | Omitted. Repealed 1901, c. 27, s. 73, afterwards repealed 1903, sess. 2, c. 24, s. 97, q.v. |
| " c. 74 | Irrigation Districts | " | 395 | The whole printed revised as amended repealed or substituted by 1899, c. 18, 1901, c. 28, and 1903, sess. 2, c. 25. For ss. affected by amending Ordinance, vide s. 8, words struck out 1899, c. 18, s. 1; s. 9, words added 1899, c. 18, s. 2; s. 11, words substituted 1899, c. 18, s. 3; s. 23, subsec. (2) added 1903, sess. 2, c. 25, s. 1; s. 70, substituted 1901, c. 28, s. 9; s. 71, substituted 1901, c. 28, s. 9; s. 72, substituted 1901, c. 28, s. 9; s. 73, substituted 1901, c. 28, s. 9; s. 74, substituted 1901, c. 28, s. 9; s. 74a added 1901, c. 28, s. 9; s. 77, words added 1899, c. 18, s. 4. |
| " c. 75 | Schools | " | ------ | Omitted. Repealed 1901, c. 29, s. 179. |
| " c. 76 | Marking and Inspection of Stock | " | ------ | Omitted. Repealed in part 1899, c. 9, s. 18; in whole by 1900, c. 22, s. 19. |
| " c. 77 | Fences | " | ------ | Omitted. Repealed 1903, sess. 2, c. 28, s. 11. |
| " c. 78 | Entire Animals | " | 311 | All printed except words of s. 4 for which substituted words provided by 1900, c. 28, s. 1, are inserted. |
| " c. 79 | Pound Districts | " | 931 | The whole printed with words inserted in s. 27, by 1900, c. 29, s. 1. |
| " c. 80 | Stray Animals | " | 1140 | The whole printed revised as affected by 1900, c. 30. |
| " c. 81 | Herding of Animals | " | 353 | The whole printed. |
| " c. 82 | Protection of Animals from Dogs | " | 951 | The whole printed. |
| " c. 83 | Injury to Stock by Railway Trains | " | 1136 | The whole printed. |
| " c. 84 | Noxious Weeds | " | ------ | Omitted. Repealed 1899, c. 22, s. 16; afterwards repealed 1903, sess. 1, c. 24, s. 22, q.v. |
| " c. 85 | Protection of Game | " | ------ | Omitted. Repealed 1903, sess. 2, c. 29, s. 29, q.v. |
| " c. 86 | Pollution of Running Streams | " | 931 | The whole printed. |

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| " | c. 87 | Prairie and Forest Fires | " | 946 | The whole printed with additions to s. 2, of subsec. (2) by 1903, sess. 1, c. 25, s. 1; of subsec. (2) by 1903, sess. 2, c. 30, s. 1; and to s. 12, of words inserted by 1904, c. 13, s. 1. |
| " | c. 88 | Construction of Chimneys | " | 206 | The whole printed. |
| " | c. 89 | Sale of Intoxicating Liquors | " | 622 | The whole printed (except parts repealed) revised as affected by the Ordinances of 1900, c. 32; 1901, c. 33; 1903, sess. 1, c. 26 and 1904, c. 14. The ss. of the principal Ordinance affected by the amending Ordinances are: 1 cl. 12 repealed and substituted by 1900, c. 32, s. 2; 3 cl. 5 added 1901, c. 33, s. 1; 3 cl. 6 added 1901, c. 33, s. 1; 3 cl. 7 added 1901, c. 33, s. 1; 3 cl. 8 added 1904, c. 14, s. 1; 6 repealed 1900, c. 32, s. 3; 8 amended 1900, c. 32, s. 1; 9 repealed 1900, c. 32, s. 4; 11 repealed and subs. 1900, c. 32, s. 5; 12 amended 1900, c. 32, s. 1; 13 subsec. (3) added 1903, sess. 1, c. 26, s. 1; 13 subsec. (4) added 1903, sess. 1, c. 26, s. 1; 13 subsec. (5) added 1903, sess. 1, c. 26, s. 1; 14 words added 1900, c. 32, s. 6; 15 repealed 1903, sess. 1, c. 26, s. 2; 23 repealed and subs. 1903, sess. 1, c. 26, s. 3; 24 amended 1901, c. 33 but substituted 1903, sess. 1, c. 26, s. 4; 24 subsec. (8) added 1904, c. 14, s. 2; 26 amended 1900, c. 32, s. 1; 27 amended 1900, c. 32, ss. 1 and 7; 28 amended 1900, c. 32, s. 1; 29 amended 1900, c. 32, s. 1; 30 amended 1900, c. 32, s. 1; 31 amended 1900, c. 32, s. 1; 32 amended 1900, c. 32 s. 1; 33 amended 1900, c. 32, s. 1 and 1901, c. 33, s. 3; 35 (2) repealed and subs. 1901, c. 33, s. 4; 36 (2) amended 1900, c. 32, s. 1; 36 (4) repealed and subs. 1904, c. 14, s. 2; 37 (3) repealed and subs. 1903, sess. 1, c. 26, s. 5; 40, cl. 6 words added 1901, c. 33, s. 5; 46 (2) amended 1900, c. 32, ss. 1 and 8; 46 (4) added 1903, sess. 1, c. 26, s. 6; 47 amended 1901, c. 33, s. 6; 49 amended 1900, c. 32, s. 1; 50 amended 1900, c. 32, s. 9 and repealed and subs. 1901, c. 33, s. 7; 51 amended 1900, c. 32, s. 1; 54 amended 1900, c. 32, ss. 1 and 10; 55 amended 1900, c. 32, s. 1; 56 amended 1900, c. 32, s. 1; 58 repd. and subs. 1900, c. 32, s. 11; 59 repd. and subs. 1900, c. 32, s. 12; 61 (2) added 1901, c. 33, s. 8; 64 (2) words struck |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Proclaimed in force from | Page of revision | DISPOSITION |
|---|---|---|---|---|
| C.O. 1898, c. 89 | Sale of Intoxicating Liquors—Continued | 15 Mar., 1899 | 622 | out 1903, sess. 1, c. 26, s. 7; 64 (4) words added 1903, sess. 1, c. 26, s. 8; 64 (6) added 1903, sess. 1, c. 26, s. 9; 65 words inserted 1901, c. 33, s. 9; 67 (2) added 1903, sess. 1, c. 26, s. 10; 73 (3) added 1901, c. 33, s. 10; 78 amended 1903, sess. 1, c. 26, s. 11; 80 cl. 1, struck out 1901, c. 33, s. 11; 82 amended 1901, c. 33, s. 12 but repealed and subs. 1903, sess. 1, c. 26, s. 12; 84 words struck out and subs. 1901, c. 33, s. 13; 85 repealed and subs. 1903, sess. 1, c. 26, s. 13; 87 words added 1900, c. 32, s. 13; 95 amended 1901, c. 33, s. 14; 97 words inserted 1900, c. 32, s. 14 and 1901, c. 33, s. 15; 105 cl. 2 repealed and subs. 1903, sess. 1, c. 26, s. 14; 108 cl 1 words added 1900, c. 32, s. 15; 108 cl. 3, amended 1900, c. 32, s. 1; 108 cl. 4, amended 1900, c. 32, s. 1; 112 amended 1900, c. 32, s. 1 and 1904, c. 14, s. 4; 119 (5) words added 1901, c. 33, s. 16; 120 words struck out and substituted 1900, c. 32, s. 16; 121 amended 1900, c. 32, ss. 1 and 17; 122 (1) amended 1900, c. 32, s. 18, afterwards subs. in part 1901, c. 33, s. 17 and 1904, c. 14, s. 5; 122 (3) amended 1900, c. 32, s. 19; 125 proviso added 1903, sess. 1, c. 26, s. 15; schedule 1, Form E amended 1901, c. 33, s. 18; E added 1904, c. 14, s. 6; F amended 1900, c. 32, s. 1; H amended 1901, c. 33, s. 18 and 1904, c. 14, s. 7; I amended 1901, c. 33, s. 18 and 1904, c. 14, s. 7; K amended 1900, c. 32, ss. 1 and 20; L amended 1900, c. 32, s.21 and 1904, c. 14, s. 8; M added 1904, c. 14, s. 9; schedule 2, Form M amended 1901, c. 33, s. 18; N amended 1901, c. 33, s. 18; O amended 1901, c. 33, s. 18; P amended 1901, c. 33, s. 18; Q amended 1901, c. 33, s. 18; R amended 1901, c. 33, s. 18. |
| c. 90 | Insane Persons | " | 373 | The whole printed as amended in s. 3, by 24 of 1899, ss. 1 and 2. |

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| " c. 91 | Profanation of Lord's Day | " | 722 | The whole printed. |
| " c. 92 | Use of Tobacco by Minors | " | 1216 | The whole printed. |
| " c. 93 | General Trust Corporation of Canada | " | | Omitted. Special. Vide 1903, c. 15, s. 2. |
| 1899, c. 1 | Appropriation | Date of assent<br>29 April, 1899 | | Omitted. Spent. |
| " c. 2 | To amend c. 2 of C.O. 1898 (Legislative Assembly) | " | 613 | Purpose accomplished. See revision of principal Ordinance amending Ordinance of two sections, s. 1 added 14a q.v.; s. 2 amended schedule 1 which 1902, c. 2, s. 3 repealed. |
| " c. 3 | To amend c. 3 of C.O. 1898 (Elections) | " | 259 | Purpose accomplished. See revision of principal Ordinance. Contained 33 secs. whereof 1 defined Ordinance to mean the Territories Elections Ordinances, 2 amended s. 3 of the Ord.; 3 added s. 3a ; 4 struck out words of s. 5; 5 struck out words of s. 8; 6 amended s. 10; 7 substituted for s. 12; 8 amended s. 13; 9 substituted for s. 14; 10 added subsec. (2) to s. 20; 11 amended s. 22; 12 added words to s. 23; 13 struck out part of subsec. (2) of s. 25; 14 amended 26 subsec. 5; 15 struck out words in s. 27; 16 amended s. 28; 17 amended s. 55; 18 amended s. 56; 19 added to s. 58, cl. (b); 20 added proviso to s. 59; 21 added proviso to s. 63; 22 inserted words in s. 82; 23 added words to s. 89, subsec. (4) cl. (a); 24 inserted words in s. 91; 25 amended s. 103; 26 struck out words of s. 104; 27 repealed ss. 106, 107, 108, 109, 110, 111 and 113; 28 struck out words s. 112; 29 inserted words s. 121; 30 amended s. 122; 31 repealed substituted for cl. 4 of sched. 1; 32 substituted for Form E of sched. 2; 33 amended Forms B, D, H and I. |
| " c. 4 | To amend c. 16 of C.O. 1898 (Coal Mines Regulations) | " | 70 | Purpose accomplished. Vide s. 4 of the principal Ordinance. |
| " c. 5 | To amend c. 21 of C.O. 1898 (Judicature) | " | 587 | Printed in part. Purpose accomplished. Vide Ord. as printed and ss. 17 and 17a of the principal Ordinance. |
| " c. 6 | To amend c. 22 of C.O. 1898 (Clerks and Deputy Clerks) | " | 62 | Purpose accomplished. Vide s. 7 subsec. (2) of the principal Ordinance. |
| " c. 7 | To Declare the Law of Partnership | " | 904 | Printed in full. |
| " c. 8 | To amend c. 51 of C.O. 1898 (Legal Prof.) | " | 611 | Purpose of ss. 1, 2 and 3 accomplished (vide ss. 5, 5 cl. 1 and 44 of the principal Ordinance). Otherwise the whole Ordinance is printed as amended s. 4 by 1904, c. 4, s. 5. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1899, c. 9 | To amend c. 53 of C.O. 1898 (Dentistry) | 29 April, 1899 | ------ | Omitted. Repealed with principal Ordinance 1903, sess. 2, c. 16, s. 74. |
| " c. 10 | To amend c. 55 of C.O. 1898 (Veterinary Surgeons) | " | 1218 | Purpose accomplished in revision of s. 4 of principal Ordinance. |
| " c. 11 | To amend c. 60 of C.O. 1898 (Threshers' Liens) | " | 1165 | Purpose accomplished. Vide principal Ordinance. |
| " c. 12 | Companies Winding up | " | ------ | Omitted. Repealed 1901, c. 20, s. 150. |
| " c. 13 | To amend c. 69 of C.O. 1898 (Agricultural Societies) | " | ------ | Omitted. Repealed 1899, c. 14, s. 31 in force January 1, 1900. |
| " c. 14 | Agricultural Societies | " | ------ | Omitted. Repealed 1903, sess. 1, c. 17, s. 37, q.v. |
| " c. 15 | To amend c. 70 of C.O. 1898 (Municipalities) | " | 865 | The whole printed. S. 1 adds subsec. (2) to s. 114 and s. 2 adds subsec. (17) to s. 121. The added provisions will be found in the principal Ordinance. Otherwise the amending Ord. is printed in full. |
| " c. 16 | To amend c. 72 of C.O. 1898 (Villages) | " | ------ | Omitted. Repealed 1900, c. 25, s. 57. Vide now 1901, c. 25. |
| " c. 17 | To amend c. 73 of C.O. 1898 (Local Imp.) |  | ------ | Omitted. Repealed with principal Ord. 1901, c. 27, s. 73. Vide now 1903, sess. 2, c. 24. |
| " c. 18 | To amend c. 74 of C.O. 1898 (Irrigation Districts) | " | 395 | Purpose accomplished. See amendments of s. 8, of principal Ord. by s. 1, s. 9 by s. 2, s. 11 by s. 3, s. 77 by s. 4, s. 5 is omitted, as it merely provides that date of effect of ss. 1, 2, 3 should be Jan 1, 1900. |
| " c. 19 | Inspection of Stock | " | 1137 | The whole printed. |
| " c. 20 | Horse Breeders | " | ------ | Omitted. Repealed 1903, sess. 1, c. 23, s. 15. |
| " c. 21 | To amend C.O. 1898, c. 77 (Fences) | " | ------ | Omitted. Repealed with principal Ord. 1903, sess. 2, c. 28, s. 11. |
| " c. 22 | Noxious Weeds | " | ------ | Omitted. Repealed 1903, sess. 1, c. 24, s. 22. |
| " c. 23 | To amend c. 85 of C.O. 1898 (Protection of Game) | " | ------ | Omitted. Repealed with principal Ord. 1903, sess. 2, c. 29, s. 29. |

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| " | c. 24 | To amend c. 90 of C.O. 1898 (Insane Persons) | " | 373 | Purpose accomplished. See amendments s. 3 of the principal Ordinance. |
| " | c. 25 | To amend No. 22 of 1890 (Calgary General Hospital) | " | ------ | Omitted. Special local—Alberta. |
| " | c. 26 | To amend No. 33 of 1893 (Incorporation of City of Calgary) | " | ------ | Omitted. Special local—Alberta. |
| " | c. 27 | To add to Municipality of Indian Head | " | ------ | Omitted. Local. |
| " | c. 28 | To Incorporate Strathcona | " | ------ | Omitted. Local. Alberta. |
| " | c. 29 | Edmonton Club | " | ------ | Omitted. Special. Alberta. |
| " | c. 30 | Qu'Appelle Grist Mill | " | ------ | Omitted. Special. Local. |
| " | c. 31 | Peace River Gold Dredging Co., Ltd. | " | ------ | Omitted. Special. |
| 1900, | c. 1 | Appropriation | 4 May, 1900 | ------ | Omitted. Spent. |
| " | c. 2 | To amend c. 14 C.O. 1898 (Vital Statistics) | " | 1251 | Purpose accomplished. Added words to s. 21 of principal Ord. included in revision. |
| " | c. 3 | To amend c. 16 C.O. 1898 (Coal Mines Regulations) | " | 70 | Purpose accomplished. Struck out subsec. (1) of sec. 4 of principal Ord. as substituted by sec. 1 of c. 4 of 1899. See revision of principal Ordinance. |
| " | c. 4 | Public Lands | " | ------ | Omitted. Repealed 1901, c. 4, s. 18. Vide now ss. 12-15 and 58 of 1901, c. 4. |
| " | c. 5 | To amend c. 21 C.O. 1898 (Judicature, Deputy Clerks and Sheriffs) | " | 587 | Printed in full. |
| " | c. 6 | To amend c. 22 C.O. 1898 (Clerks and Deputy Clerks) | " | 62 | Purpose accomplished by revision of the principal Ord. wherein subsec. (2) is added to s. 1, subsec (2) to s. 2 and words are struck out of and others substituted in s. 14. |
| " | c. 7 | To amend c. 23 C.O. 1898 (Sheriffs and Deputy Sheriffs) | " | 1122<br>1124 | Purpose accomplished by revision of the principal Ordinance wherein s. 22 repealed is omitted ss. 27 and 28 are amended. |
| " | c. 8 | To amend c. 32 C.O. 1898 (Justices of the Peace) | " | 722 | Purpose accomplished by revision of s. 8 and omission of s. 9 of the principal Ordinance repealed. |
| " | c. 9 | Remission of Penalties | " | 988 | The whole printed. |
| " | c. 10 | Confirmation of Tax Sales | " | ------ | Omitted. Repealed 1901, c. 12, s. 5. |
| " | c. 11 | Assignments for Creditors | " | 22 | The whole printed. |
| " | c. 12 | To amend c. 43 C.O. 1898 (Mortgages and Sales of Personal Property) | " | 45 | Purpose of ss. 1 and 2 accomplished in revision of ss. 2 and 17 of the principal Ordinance, s. 3 the only remaining s. printed. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1900, c. 13 | Compensation to Workmen | 4 May, 1900 | 1262 | The whole printed. |
| " c. 14 | To amend c. 51 C.O. 1898 (Legal Prof.) | " | 595 | Purpose accomplished. See revised ss. 10 and 11 of the principal Ordinance. |
| " c. 15 | To amend c. 52 C.O. 1898 (Medical Prof.) | " | 760 | Purpose accomplished. See s. 29, cl. (b) and (c) of the principal Ord. as revised. |
| " c. 16 | To amend c. 53 C.O. 1898 (Dentistry) | " | ------ | Omitted. Repealed with principal Ordinance 1903, sess. 2, c. 16, s. 74. |
| " c. 17 | To amend c. 61 C.O. 1898 (Companies) | " | ------ | Omitted. Repealed 1901, c. 20, s. 150. |
| " c. 18 | To amend c. 63 C.O. 1898 (Foreign Com.) | " | ------ | Omitted. Expressly repealed 1903, c. 14, s. 18. |
| " c. 19 | To amend c. 64 C.O. 1898 (Mining Com.) | " | ------ | Omitted. Repealed with principal Ordinance 1901, c. 20, s. 150. |
| " c. 20 | Hail Insurance | " | ------ | Omitted. Repealed 1901, c. 9, s. 18. See now 1903, sess. 1, c. 7, q.v. |
| " c. 21 | To amend c. 14 of 1899 (Agricul. Societies) | " | ------ | Omitted. Repealed with principal Ordinance 1903, sess. 1, c. 17, s. 37, q.v. |
| " c. 22 | Brands | " | 46 | The whole printed as amended 1903, sess. 1, c. 22, s. 1 by additions of cl. 10 to s. 2 and 1903, sess. 1, c. 22, s. 2 by repeal of s. 4 and substitution of the s. incorporated in revision of principal Ordinance. |
| " c. 23 | To amend c. 70 of C.O. 1898 (Municipalities | " | 775 | Purpose accomplished in revision of principal Ordinance ss. 10, (cl. 3, 9, 19, 53, 55 and 75) 108, 121 (cl. 12) and 285. Vide note in this table as to disposition of the principal Ordinance. |
| " c. 24 | Municipal Grants for Patriotic Purposes | " | 867 | The whole printed. |
| " c. 25 | Villages | " | ------ | Omitted. Repealed 1901, c. 25, s. 64. |
| " c. 26 | To amend c. 75 C.O. 1898 (Schools) | " | ------ | Omitted. Repealed 1901, c. 29, s. 179. |
| " c. 27 | To amend c. 77 C.O. 1898 (Fences) | " | ------ | Omitted. Repealed with principal Ordinance 1903, sess. 2, c. 28, s. 11. |

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| " c. 28 | To amend c. 78 C.O. 1898 (Entire Animals) | " | 311 | Purpose accomplished in revision of principal Ordinance. See s. 4, subsec. (2). |
| " c. 29 | To amend c. 79 C.O. 1898 (Pound Districts) | " | 931 | Purpose accomplished in revision of principal Ordinance. See s. 27. |
| " c. 30 | To amend c. 80 C.O. 1898 (Stray Animals) | " | 1143<br>1144 | Purpose accomplished in revision of principal Ordinance. Vide s. 5, subsecs. (2) and (3) 6, subsecs. (4) and (5), 7, 8 subsecs. (1), (2), (3), 10 and 11 subsec. (2) and Form B substituted. |
| " c. 31 | To amend c. 22 of 1899 (Noxious Weeds) | " | ------ | Omitted. Repealed with principal Ordinance 1903, sess. 1, c. 22, s. 22. |
| " c. 32 | To amend c. 89 C.O. 1898 (Sale of Intoxicating Liquor) | " | 622<br>689 | Printed as to ss. 1, 22 with subs. (2) and (3) added 1901, c. 33, ss. 21 and 23. Purpose of all other ss. accomplished in revision of principal Ordinance. Vide note in this table as to disposition of the principal Ordinance. Note that s. 50 amended by s. 9 was repealed and substituted 1901, c. 33, s. 7 and that the words added by s. 18 to s. 122 subsec. (1) were struck out and others substituted 1904, c. 14, s. 5. |
| " c. 33 | The Provident Trust and Invest. Co., Ltd. | " | ------ | Omitted. Special Act of incorporation. |
| " c. 34 | Board of Trustees of Presbyterian Church | " | ------ | Omitted. Special Act of incorporation. |
| " c. 35 | Edmonton Municipal Public Works | " | ------ | Omitted. Special. Local. Alberta. |
| " c. 36 | To amend No. 7 of 1891-92 (Town of Edmonton) | " | ------ | Omitted. Special. Local. Alberta. |
| " c. 37 | To grant Further Powers to Town of Lethbridge | " | ------ | Omitted. Special. Local. Alberta. |
| " c. 38 | To amend c. 27 of 1899 (Indian Head) | " | ------ | Omitted. Special. Local. |
| " c. 39 | To Confirm Bylaw 386, Calgary and amend No. 33 of 1893 | " | ------ | Omitted. Special. Local. |
| " c. 40 | To Legalise Bylaw 281, South Qu'Appelle and Debentures | " | ------ | Omitted. Special. Local. |
| " c. 41 | To incorporate Yorkton | " | ------ | Omitted. Special. Local. |
| " c. 42 | Regina Hospital | " | ------ | Omitted. Special Act of incorporation. |
| " c. 43 | Edmonton Public Hospital | " | ------ | Omitted. Special Act of incorporation. Alberta. |
| " c. 44 | Victoria Hospital of Prince Albert | " | ------ | Omitted. Special Act of incorporation. |
| " c. 45 | To amend No. 27 of 1889 (Medicine Hat General Hospital) | " | ------ | Omitted. Special. Local. Alberta. |
| 1901, c. 1 | Appropriation | 12 June, 1901 | ------ | Omitted. Spent. |
| " c. 2 | To amend c. 1 of C.O. 1898 (Interpretation) | 22 May, 1901 | 386 | Purpose accomplished. Vide s. 8, cl. 19 of principal Ordinance. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1901, c. 3 | To amend c. 5 C.O. 1898 (Public Service) | 12 June, 1901 | 962 | Purpose accomplished. Vide s. 4, subclause (g) of principal Ordinance as revised. |
| " c. 4 | Public Works | " | 968 | Printed. Revised as affected by c. 6 of 1903, sess. 1, c. 3 of 1903, sess. 2, c. 2. of 1904. The ss. affected are 6 repealed 1903, sess. 2, c. 3, s. 1; 8 repealed 1903, sess. 2, c. 3, s. 1; 9 repealed 1903, sess. 2, c. 3, s. 1; 15 amended 1903, sess. 2, c. 3, s. 2; 31 to 46 inclusive repealed 1903, sess. 1, c. 6, Drainage Ordinance. 48 subsec. (2) added 1904, c. 2, s. 1. 53 repealed and subs. 1903, sess. 2, c. 3, s. 3. 53a enacted 1903, sess. 2, c. 3, s. 4. 76 repealed and subs. 1904, c. 2, s. 2. |
| " c. 5 | To amend c. 11 C.O. 1898 (Public Printing) | 22 May, 1901 | 961 | Purpose accomplished. Vide revision of principal Ordinance ss. 1, 2, 3 and 7. |
| " c. 6 | To amend c. 11 C.O. 1898 (Public Printing) | 12 June, 1901 | 961 | Purpose accomplished. Vide revision of principal Ordinance s. 6. |
| " c. 7 | Steam Boilers Inspection | " | 1127 | The whole printed revised as amended 1903, sess. 2, c. 4, whereof s. 1 added subsec. to s. 12. S. 2 repealed and substituted for s. 29. |
| " c. 8 | Public Aid to Hospitals | " | 370 | The whole printed. |
| " c. 9 | Hail Insurance | " | ------ | Omitted. Repealed 1903, sess. 1, c. 7, s. 17. |
| " c. 10 | To amend c. 21 C.O. 1898 (Judicature) | " | 426 | Purpose accomplished vide revision of principal Ordinance s. 10, cl. 12 added to by s. 1; Rule 18 added to (cl. 9) by s. 2; Rule 99 added to by s. 3; Rule 225 repealed and substituted by s. 4; Rule 388 amended by s. 5; Rule 427 cl. 4 struck out by s. 6; Rule 429 added to subrule (2) by s. 7; Rule 430 added to by s. 8; Rule 456a added by s. 9; Rule 523a added by s. 10; Rule 523b added by s. 10; Form A amended by s. 11; Form C amended by s. 12; Form F (1) added by s. 13. Small Debt Tariff amended by s. 14. |
| " c. 11 | Decision of Constitutional Questions | 22 May, 1901 | 205 | The whole printed. |

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| " | c. 12 | Confirmation of Tax Sales | 12 June, 1901 | 108 | The whole printed revised as amended by insertion of a word in and adding subsec. to s. 2 by 1903, sess. 1, c. 9, s. 1. |
| " | c. 13 | Devolution of Estates | " | 248 | The whole printed. |
| " | c. 14 | To amend c. 22 C.O. 1898 (Clerks and Deputy Clerks) | 22 May, 1901 | 60 | Purpose accomplished in revision of principal Ordinance whereof s. 23 was amended by adding subsec. (7). |
| " | c. 15 | Official Auditors | 12 June, 1901 | 809 | The whole printed. |
| " | c. 16 | To amend c. 27 C.O. 1898 (Exemptions) | 22 May, 1901 | 317 | Purpose accomplished in revision of principal Ordinance. |
| " | c. 17 | To amend c. 46 C.O. 1898 (Marriages) | 12 June, 1901 | 733 | The whole printed. S. 1 amends s. 3 of the principal Ordinance and effect is given in revision thereof. |
| " | c. 18 | To amend c. 51 C.O. 1898 (Legal Prof.) | 22 May, 1901 | 602 | Purpose accomplished. Vide s. 36 of the principal Ordinance to which subsec. (2) to (7) inclusive are added. The Ordinance contained only s. 1 adding these subsecs. |
| " | c. 19 | To amend c. 60 C.O. 1898 (Threshers' Liens) | 12 June, 1901 | 1165 | Purpose accomplished in revision by amendment of s. 1 of principal Ordinance as amended 1899, c. 11, s. 1. |
| " | c. 20 | Companies | " | 94 | The whole printed. |
| " | c. 21 | Water, Gas, Electric and Telephone Com. | " | 1256 | The whole printed. |
| " | c. 22 | Foreign Companies | " | ------ | Omitted. Disallowed Vol. XXXV Canada Gazette, p. 2417. |
| " | c. 23 | To amend c. 70 C.O. 1898 (Municipalities) | " | 868 | Purpose of ss. 1 to 8 accomplished. Vide repeal of ss. 47 to 53 inclusive and amendments of ss. 95, cl. 22, 95, cl. 40, 109, 128, 201, 202 and 215 of the principal Ordinance. S. 9 omitted as s. 218 thereby amended was repealed 1904, c. 6, s. 2. S. 10 to end of Ordinance printed as amended in s. 13 by added subsec. (3) by 1903, sess. 1, c. 19, s. 4, and in s. 18 by substituting provisions of 1903, sess. 2, c. 22, s. 2. |
| " | c. 24 | Exemption from Taxation of Beet Sugar Factories | " | 26 | The whole printed. |
| " | c. 25 | Villages | " | 1219 | The whole printed. Revised as affected by 1903, sess. 1, c. 20, 1903, sess. 2, c. 23, and 1904, c. 7, except that repealed ss. are omitted. Portions affected are: s. 2, subsec. (6) added 1904, c. 7, s. 1; s. 4 repealed and substituted 1903, sess. 2, c. 23, s. 1; s. 16, par. (1) repealed and substituted 1903, sess. 1, c. 20, s. 1; s. 22, cl. (11) added 1903, sess. 1, c. 20, s. 2; s. 33, subsec. (3) added 1903, sess. 1, c. 20, s. 3; proviso added 1903, sess. 2, c. 23, s. 2; s. 35, words struck out and substituted 1904, c. 7, s. 2; s. 36, subsec. (5) added 1903, sess. 1, c. 20, s. 4; s. 40, subsec. (4) added 1903, sess. 1, c. 20, s. 5; s. 40a added 1904, c. 7, s. 3; s. 57, subsec. (2) added 1903, sess. 1, c. 20, s. 6; s. 62 repealed 1903, sess. 2, c. 23, s. 3. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1901, c. 26 | To remove Doubts as to Effect of c. 17 of 1899 on Ordinance to amend c .73 C.O. 1898 (Local Improvement) | 22 May, 1901 | ------ | Omitted. Unnecessary. Declaratory of law under a repealed Ordinance, 1901, c. 27, s. 73, repealed the C.O., c. 73 and amendments. |
| " c. 27 | Local Improvement | | | |
| " c. 28 | To amend c. 74 C.O. 1898 (Irrigation Districts | 12 June, 1901 | ------ | Omitted. Repealed 1903, sess. 2, c. 24, s. 97. |
| | | " | 424 | The whole printed save that the 6 ss. substituted by s. 9 for ss. 70, 71, 72, 73 and 74 are printed in the principal Ordinance as revised as ss. 70 to 74a inclusive. |
| " c. 29 | Schools | " | 1008 | The whole printed revised as affected 1903, sess. 2, c. 27 and 1904, c. 9. Portions affected are: s. 2, par 7 words added 1903, sess. 2, c. 27, s. 1; s. 2, par. 9, words added 1903, sess. 2, c. 27, s. 1; s. 2, par. 13 added 1903, sess. 2, c. 27, s. 1; s. 2, par. 14, added 1903, sess. 2, c. 27, s. 1; s. 2, par. 15, added 1903, sess. 2, c. 27, s. 1; s. 9, repealed and substituted 1903, sess. 2, c. 27, s. 2; s. 32, subclause (e) added 1903, sess. 2, c. 27, s. 3; s. 42, subsec. (2) added 1903, sess. 2, c. 27, s. 4; s. 42, subsec. (3) added 1903, sess. 2, c. 27, s. 4; s. 59, par. 1 struck out 1903, sess. 2, c. 27, s. 5; s. 71, subsec. (3) added 1903, sess. 2, c. 27, s. 6; ss. 107, 108, 109, 110 and 111 repealed and substituted 1903, sess. 2, c. 27, s. 7; s. 116 amended 1903, sess. 2, c. 27, s. 8; s. 128, subsec. (2) added to 1903, sess. 2, c. 27, s. 9; subsec. (3) provisos added 1904, c. 9, s. 1; s. 128, subsec. (5) repealed and substituted 1903, sess. 2, c. 27, s. 10; 131 amended 1903, sess. 2, c. 27, s. 11; 163 amended 1903, sess. 2, c. 27, s. 11; 171 subsec. (2) added 1903, sess. 2, c. 27, s. 12. Form B words struck out 1903, sess. 2, c. 27, s. 13; Forms D and E repealed 1903, sess. 2, c. 27, s. 14. |

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| " c. 30 | School Assessment | " | 1061 | The whole printed as amended 1903, sess. 1, c. 21. The ss. affected are: 10 subsecs. (5 and 6) added 1903, c. 21, s. 1; 11 subsec. (5) added 1903, c. 21, s. 2; 13 subsec. (2) added 1903, c. 21, s. 3; 14 subsec. (4) added 1903, c. 21, s. 4; 15 words added 1903, c. 21, s. 5; 89 subsec. (3) added 1903, c. 21, s. 6; 95 words struck out and substituted 1903, c. 21, s. 7. |
| " c. 31 | School Grants | " | 1103 | The whole printed as amended in s. 3 subclause (1)a and with proviso added to s. 9 by 1904, c. 10, ss. 1 and 2 respectively. |
| " c. 32 | To amend C.O. c. 85 (Protection of Game) | " | ------ | Omitted. Repealed 1903, sess. 2, c. 29, s. 20. |
| " c. 33 | To amend C.O. c. 89 (Sale of Intoxicating Liquors) | " | 691 | Printed as to ss. 18, 19, 20 (as amended 1903, sess. 2, c. 26, s. 16) and 22. The purpose of ss. 1 to 17 and 21 is accomplished in revision of principal Ordinance except as to ss. 2 and 12 superseded by 1903, sess. 1, c. 26, ss. 4 and 12 substituting other ss. 24 and 82 for the ss. thereby amended. |
| " c. 34 | North-Eastern Stock Growers' Association | " | ------ | Omitted. Special Act of Incorporation. |
| " c. 35 | British Canadian Trust and Guar. Co. | " | ------ | Omitted. Special Act of Incorporation. Vide 1903 (1), c. 15, s. 2. |
| " c. 36 | Saskatchewan Exploration Company | " | ------ | Omitted. Special Act of Incorporation. |
| " c. 37 | The Chinook Club, Lethbridge | " | ------ | Omitted. Special. Alberta. |
| " c. 38 | To Authorise Debentures of Town of Whitewood | " | ------ | Omitted. Special. Local. |
| " c. 39 | To amend No. 43 of 1898 (Incorporation of Wolseley) | " | ------ | Omitted. Special. Local. |
| " c. 40 | To amend No. 33 of 1893 (Calgary) and to Confirm Purchase of Waterworks | " | ------ | Omitted. Local. Alberta. |
| " c. 41 | Calgary Water Supply | " | ------ | Omitted. Special. Alberta. |
| " c. 42 | To Incorporate Red Deer | " | ------ | Omitted. Local. Alberta. |
| " c. 43 | To Incorporate Cardston | " | ------ | Omitted. Local. Alberta. |
| 1902, c. 1 | Appropriation | 19 April, 1902 | ------ | Omitted. Spent. |
| " c. 2 | To amend c. 2, C.O. 1898 (Legislative Assembly) | " | ------ | Omitted. Superseded. S. 1 amended s. 1 superseded by Saskatchewan Act. S. 2 repealed by 1903, sess. 2, c. 2, s. 2. S. 3 substituted schedule 1 superseded by Saskatchewan Act. |
| " c. 3 | To amend c. 3 C.O. (Elections) | " | 266 | Purpose accomplished in revision of principal Ordinance. Proviso added to s. 22. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1902, c. 4 | Public Health | 19 April, 1902 | 952 | The whole printed. |
| " c. 5 | To amend c. 21 C.O. (Judicature) | " | 426<br>486<br>499<br>540 | Purpose accomplished in revision of principal Ordinance whereof Rule 224 is added subrules (2) and (3) by s. 1; Rule 287a is added by s. 2. Rule 472 is repealed and substituted by s. 3. Form C is amended by s. 4. |
| " c. 6 | To amend c. 53 C.O. (Dentistry) | " | | Omitted. Repealed with principal Ordinance 1903, sess. 2, c. 16, s. 74. |
| " c. 7 | To amend c. 54 C.O. (Chemists and Druggists) | " | 921 | Purpose accomplished in revision of principal Ordinance. ss. 4, 10, 12, 17, 19 and 33 amended. Form A repealed and substituted. |
| " c. 8 | To amend c. 22 of 1901 (Foreign Com.) | " | | Omitted. Principal Ordinance disallowed. |
| " c. 9 | To amend c. 70 of C.O. (Municipalities) | " | 775 | Purpose accomplished in revision of principal Ordinance. |
| " c. 10 | To amend c. 85 of C.O. (Protection of Game) | " | | Omitted. Repealed 1903, sess. 2, c. 29, s. 29. |
| " c. 11 | Protection of Useful Birds | " | 1217 | The whole printed. |
| " c. 12 | R.C. Bishop of Athabasca | " | | Omitted. Special incorporation. |
| " c. 13 | Les Soeurs de Charite de la Providence du Nord Ouest | " | | Omitted. Special incorporation. |
| " c. 14 | To amend c. 36 of 1901 (Saskatchewan Exploration Company) | " | | Omitted. Principal Ordinance omitted. |
| " c. 15 | To amend c. 35 of 1900, Edmonton Public Works | " | | Omitted. Principal Ordinance omitted. |
| " c. 16 | To amend No. 7 of 1891-92 (Town of Edmonton) | " | | Omitted. Special. Local. Alberta. |
| " c. 17 | To amend No. 33 of 1893 (City of Calgary) | " | | Omitted. Special. Local. Alberta. |
| " c. 18 | To amend No. 24 of 1890 (Lethbridge) | " | | Omitted. Special. Local. Alberta. |
| " c. 19 | Municipality of Indian Head | " | | Omitted. Local. |
| " c. 20 | Town of Indian Head | " | | Omitted. Special incorporation. Local. |
| " c. 21 | Red Deer Hospital | " | | Omitted. Special. Alberta. |
| " c. 22 | Pincher Creek Hospital | " | | Omitted. Special. Alberta. |

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| " | c. 23 | Yorkton Cottage Hospital | " | | Omitted. Special incorporation. |
| " | c. 24 | To amend c. 42 of 1900 (Regina Hospital) | " | | Omitted. Principal Act omitted. |
| " | c. 26 | National Trust Company, Ltd. | " | | Omitted. Special incorporation. Vide 1903 (1), c. 15, s. 2. |
| 1903, (1) | c. 1 | Appropriation (Interim) | 25 April, 1903 | | Omitted. Spent. |
| " | c. 2 | Appropriation | 19 June, 1903 | | Omitted. Spent. |
| " | c. 3 | To amend c. 1 C.O. (Interpretation) | " | 391 | Purpose accomplished in revision of s. 8, par. 48, of principal Ordinance. |
| " | c. 4 | To amend c. 2 C.O. (Legislative Assembly) | " | 616 | Purpose accomplished as to s. 1 in revised s. 18 of principal Ordinance. Remainder repealed 1903, sess. 2, c. 2, s. 2. |
| " | c. 5 | To amend c. 12 C.O. (Public Inquiries) | " | 373 | Purpose accomplished. See s. 3 of principal Ordinance subsec. (2) added. |
| " | c. 6 | Drainage | " | 251 | The whole printed. |
| " | c. 7 | Hail Insurance | 25 April, 1903 | 347 | The whole printed. |
| " | c. 8 | To amend c. 21 of C.O. (Judicature) | 19 June, 1903 | 427<br>500<br>522<br>532<br>540<br>548<br>553<br>557<br>560<br>568 | Purpose accomplished in revision of principal Ordinance of which the following rules are affected: 287b added by s. 1; 397 subrule (2) added by s. 2.<br>432 repealed and substituted by s. 3.<br>469 subrule (2) added by s. 4.<br>510 amended by striking out words s. 5.<br>536 amended by striking out words s. 6.<br>558 par. 1 amended s. 7.<br>570 amended s. 8.<br>597 part struck out and substituted s. 9. |
| " | c. 9 | To amend c. 12 of 1901 (Confirmation of Tax Sales) | " | 199 | Purpose accomplished in revision of s. 2 of principal Ordinance. |
| " | c. 10 | To amend c. 25 C.O. (Notaries Public) | " | 894 | Purpose accomplished. See ss. 1 and 3 of principal Ordinance as amended and ss. 4 and 5 added. |
| " | c. 11 | To amend c. 46 C.O. (Marriages) | " | 739 | Purpose accomplished as to ss. 1 and 2 in revision of principal Ordinance s. 11 and Form B. Remainder printed. |
| " | c. 12 | To amend c. 52 C.O. (Medical Profession) | " | 774 | Purpose accomplished as to ss. 1, 2 and 3 by revision of ss. 14, 15 and 34 of principal Ordinance. Remainder printed. |
| " | c. 13 | Companies Winding Up | " | 176 | The whole printed. |
| " | c. 14 | Foreign Companies | " | 332 | The whole printed. Revised in s. 3 by insertion of subsec. (3) by 1903, sess. 2, c. 19, s. 1. |
| " | c. 15 | Trust Companies | " | 1184 | The whole printed. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1903, (1) c. 16 | Fire Insurance Policies | 19 June, 1903 | 325 | The whole printed revised as amended 1903, sess. 2, c. 20 in ss. 3 and the Statutory Conditions par. 8, 13 (d), 17 and 19. |
| " c. 17 | Agricultural Societies | " | 2 | The whole printed. |
| " c. 18 | To amend c. 70 C.O. (Municipalities) | 26 April, 1903 | 872 | Printed save that substituted provisions are inserted in s. 121 of the principal Ordinance. |
| " c. 19 | To amend c. 70 C.O. (Municipalities) | 19 June, 1903 | 775<br>779<br>808<br>813<br>868<br>870 | Purpose accomplished in revision of principal Ordinance and amendments.<br>Vide s. 9, subsec. (2) added by s. 1.<br>S. 95, par. 76 added by s. 2.<br>S. 118, subsec. (2) repealed and substituted by s. 3.<br>S. 13 of 1901, c. 23, subsec. (3) added by s. 4.<br>S. 18 of 1901, c. 23, amended by s. 5, but repealed and substituted 1903 (2), c. 22, s. 2. |
| " c. 20 | To amend c. 25 of 1901 (Villages) | " | 1223<br>1230 | Purpose accomplished in revision of principal Ordinance.<br>Vide note as to disposition s. 16 (1), 22 (11), 33 (3), 36 (5), 40 (4) and 57 (2). |
| " c. 21 | To amend c. 30 of 1901 (School Assessment) | " | 1103 | Purpose accomplished in revision of principal Ordinance. See note as to disposition of amendments thereto. |
| " c. 22 | To amend c. 22 of 1900 (Brands) | " | 47 | Purpose accomplished in revision. See note to principal Ordinance. |
| " c. 23 | Horse Breeders | " | 366 | The whole printed. |
| " c. 24 | Noxious Weeds | " | 895 | The whole printed as affected by 1904, c. 11, in ss. 2 and 14. |
| " c. 25 | To amend c. 87 C.O. (Prairie and Forest Fires) | " | 946<br>947 | Purpose accomplished. Vide revision of principal Ordinance s. 2, to which subsec. (2) is added. |
| " c. 26 | To amend c. 89 C.O. (Intoxicating Liquor) | " | 692 | Purpose of ss. 1 to 15 inclusive accomplished. See revision of principal Ordinance, ss. 13, 15, 23, 24, 37, subsec. (3) 46, subsec. (4) 64, subsec. (2), (4) and (6) added 67, subsec. (2) 78, subsec. (1) 82, 85, 105, par. (2) and 125. Purpose of s. 16 accomplished by revision of 1901, c. 33, s. 20, subsec. (3). Remainder of Ordinance printed. Vide note as to disposition of principal Ordinance. |

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| " | c. 27 | To amend No. 33 of 1893 (Calgary) | 25 April, 1903 | | Omitted. Local. Alberta. |
| " | c. 28 | City of Regina | 10 June, 1903 | | Omitted. Special incorporation. |
| " | c. 29 | To amend No. 25 of 1887 (Moosomin) and Legalise Bylaws | 25 April, 1903 | | Omitted. Special. Local. |
| " | c. 30 | To amend No. 24 of 1890 (Lethbridge) | " | | Omitted. Local. Alberta. |
| " | c. 31 | To amend c. 41 of 1900 (Yorkton) | " | | Omitted. Local incorporation. |
| " | c. 32 | To amend c. 28 of 1890 (Strathcona Incorporation) | 19 June, 1903 | | Omitted. Special, local. Alberta. |
| " | c. 33 | Municipal Public Works Moose Jaw | " | | Omitted. Special. Local. |
| " | c. 34 | To amend c. 42 of 1900 (Regina Victoria Hospital) | 25 April, 1903 | | Omitted. Local. |
| " | c. 35 | To amend No. 22 of 1890 (Calgary General Hospital) | " | | Omitted. Local. Alberta. |
| " | c. 36 | To amend No. 39 of 1894 (Galt Hospital Incorporation) | " | | Omitted. Special. Alberta. |
| " | c. 37 | To amend c. 23 of 1902 (Yorkton Victoria Cottage Hospital) | " | | Omitted. Special incorporation. |
| " | c. 38 | Moose Jaw General Hospital | " | | Omitted. Special incorporation. |
| " | c. 39 | Western Canada College | 19 June, 1903 | | Omitted. Special incorporation. Alberta. |
| " | c. 40 | Western Canada Historical Society | " | | Omitted. Special incorporation. |
| " | c. 41 | The Macleod Club | " | | Omitted. Special. Alberta. |
| " | c. 42 | Russo-Greek Catholic Orthodox Church | " | | Omitted. Special incorporation. |
| " | c. 43 | To amend No. 31 of 1896 (Western Stock Growers' Association) | " | | Omitted. Special incorporation. Alberta. |
| " | c. 44 | Toronto General Trusts Corporation | 25 April, 1903 | | Omitted. Special. Vide 1903 (1), c. 15, s. 2. |
| 1903 (2), | c. 1 | Appropriation | 21 Nov., 1903 | | Omitted. Spent. |
| " | c. 2 | To amend c. 2 C.O. (Legislative Assembly) | " | 618 | The whole printed. |
| " | c. 3 | To amend c. 4 of 1901 (Public Works) | " | 968 | Purpose accomplished. See note on revision of principal Ordinance. |
| " | c. 4 | To amend c. 7 of 1901 (Steam Boilers Inspection) | " | 1129<br>1133 | Purpose accomplished. See note on revision of principal Ordinance. |
| " | c. 5 | Succession Duties | " | 1149 | The whole printed. |
| " | c. 6 | To amend c. 21 C.O. (Judicature) | " | 587 | Printed except as to provisions added by s. 2, as 7 (a) the principal Ordinance. |
| " | c. 7 | To amend c. 31 C.O. (Limitation of Actions) | " | 621 | Purpose accomplished by adding s. 3 to principal Ordinance. |
| " | c. 8 | Seduction | " | 1117 | The whole printed. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1903, (2) c. 19 | Support of Illegitimate Children | 21 Nov., 1903 | 1161 | The whole printed. |
| " c. 10 | To amend c. 32 C.O. | " | 728 | The whole printed. |
| " c. 11 | Trustees, Executors and Administrators | " | 1187 | The whole printed. |
| " c. 12 | To amend c. 44 C.O. (Conditional Sales of Goods) | " | 197 | Purpose accomplished in revision of principal Ordinance. |
| " c. 13 | To amend c. 50 C.O. (Masters and Servants) | " | ------ | Omitted. Repealed 1904, c. 3, s. 8. |
| " c. 14 | To amend c. 51 C.O. (Legal Profession) | " | 612 | The whole printed. |
| " c. 15 | To amend c. 52 C.O. | " | 775 | The whole printed. |
| " c. 16 | Dentistry | " | 232 | The whole printed. Revised as amended in subsec. (d) of s. 29, by c. 5 of 1904. |
| " c. 17 | To amend c. 55 C.O. (Veterinary Surgeons) | " | 1218 | Purpose accomplished in revision of principal Ordinance by substitution of s. 2, by s. 1 hereof. |
| " c. 18 | To amend c. 59 C.O. (Mechanics' Liens) | " | 758 | The whole printed save that par. 4 of s. 2 is inserted in principal Ordinance in accordance with s. 1 hereof. |
| " c. 19 | To amend c. 14 of 1903 (1) (Foreign Companies) | " | 333 | Purpose accomplished in revision of principal Ordinance. Vide note as to disposition thereof. |
| " c. 20 | To amend c. 16 of 1903 (1) (Fire Insurance Policies) | " | 326 | Purpose accomplished. Vide note as to disposition of principal Ordinance. |
| " c. 21 | Mutual Fire Insurance | " | 877 | The whole printed. |
| " c. 22 | To amend c. 22 C.O. (Municipalities) | " | 872 | The whole printed save s. 1 amending s. 95 par. 75 and adding par. 77 to s. 95, and s. 2 substituting s. 18 of 1901, c. 23. See note as to disposition of Ordinance cited. |
| " c. 23 | To amend c. 25 of 1901 (Villages) | " | 1220<br>1229 | Purpose of ss. 1 and 2 accomplished in revision of principal Ordinance. Vide s. 4, 33 subsec. (3) proviso. Remainder printed. |

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| " | c. 24 | Local Improvement Districts | " | 696 | The whole printed revised as affected 1904, c. 8. Portions affected. 3 subsec. (1) words added by s. 1; 4 repealed and substituted by s. 2; 12 repealed and substituted by s. 3; 15a and b added by s. 4; 25 repealed and substituted by s. 5; 25 (b), (c) and (d) added by s. 5; 45 subsecs. (10) and (11) added by s. 6; 47 words added by s. 7; 54 repealed and substituted by s. 8; 96 words added by s. 9; 96a added by s. 10; Forms C, D and E added by s. 11. |
| " | c. 25 | To amend c. 74 C.O. (Irrigation Districts) | " | 403 | Purpose accomplished in revision. S. 23, subsec. (2) added by s. 1. |
| " | c. 26 | To establish a University | " | 1208 | The whole printed. |
| " | c. 27 | To amend c. 29 of 1901 (Schools) | " | 1061 | Printed as to ss. 15 and 16. Purpose of all other ss. accomplished in revision of principal Ordinance. S. 2, par. 7 proviso, par. 9 words added. par. 13, 14 and 15 added by s. 1 of amending Ordinance. S. 9 repealed and subs. by s. 2; s. 32, subcl. (e) added by s. 3; s. 46, subsecs. (2) and (3) added by s. 4; s. 59. par. 1 struck out by s. 5; s. 71, subsec. (3) added by s. 6; ss. 107, 108, 109, 110 and 111 substituted by s. 7; s. 116 words struck out by s. 8; s. 128, subsec. (2) words addded by s. 9; s. 128, subsec. (5) substituted by s. 10; ss. 131 and 163 amended by s. 11; s. 171, subsec. (1) added by s. 12; Form B (c) amended by s. 13; Forms D and E repealed by s. 14. |
| " | c. 28 | Fences | " | 321 | The whole printed. |
| " | c. 29 | Protection of Game | " | 339 | The whole printed as affected 1904, c. 12 in s. 4, subsec. (4) by s. 1, of 12 of 1904; s. 5, subsec. (1) by s. 2 of 12 of 1904; s. 9, subsec. (2) by s. 3 of 12 of 1904. |
| " | c. 30 | To amend C.O. 87 (Prairie and Forest Fires) | " | 947 | Purpose accomplished. See s. 2, subsec. (3) added. See note as to disposition of principal Ordinance. |
| " | c. 31 | To Legalise Certain Marriages | " | ------ | Omitted. Special. |
| " | c. 32 | To amend certain Ordinances as to Town of Edmonton | " | ------ | Omitted. Special. Local. Alberta. |
| " | c. 33 | Town of Raymond | " | ------ | Omitted. Special. Alberta. |
| " | c. 34 | City of Moose Jaw | | ------ | Omitted. Special incorporation. |
| " | c. 35 | The Cypress Club | | ------ | Omitted. Special. Alberta. |
| 1904, | c. 1 | Appropriation | 8 Oct., 1904 | ------ | Omitted. Spent. |
| " | c. 2 | To amend c. 4 of 1901 (Public Works) | " | 976<br>983 | Purpose accomplished. Vide ss. 48 and 76 of the principal Ordinance. |

## CHRONOLOGICAL TABLE—*Continued.*

| Ordinance | SUBJECT MATTER | Date of assent | Page of revision | DISPOSITION |
|---|---|---|---|---|
| 1904, c. 3 | Masters and Servants | 8 Oct., 1904 | 740 | The whole printed. |
| " c. 4 | To amend c. 51 C.O. (Legal Profession) | " | 612 | Printed as to ss. 1 and 4: The remainder given effect in revision. Vide ss. 38a and 41a added by ss. 2 and 3 to the principal Ordinance and s. 4 of c. 8 of 1899 amended by s. 5. |
| " c. 5 | To amend c. 16 of 1903, sess. 2 (Dentistry) | " | 238 | Purpose accomplished in revision of s. 29, subsec. (d) of principal Ordinance. |
| " c. 6 | To amend c. 70 C.O. (Municipalities) | " | 876 | All printed but ss. 1 and 2 affecting ss. 213 and 218 to which effect is given in revision of principal Ordinance. Vide note. |
| " c. 7 | To amend c. 25 of 1901 (Villages) | " | 1219<br>1229<br>1232 | Purpose accomplished in revision of principal Ordinance. Vide s. 2, subsec. (6), 35 and 40a in note as to disposition of principal Ordinance. |
| " c. 8 | To amend c. 24 of 1903, sess. 2 (Local Improvement Districts) | " | 698 | Purpose accomplished in revision of principal Ordinance. See note as to disposition thereof. |
| " c. 9 | To amend c. 29 of 1901 (Schools) | " | 1043 | Purpose accomplished in adding provisos to subsec. (3) of s. 128 of principal Ordinance, q.v. |
| " c. 10 | To amend c. 31 of 1901 (School Grants) | " | 1104<br>1107 | Purpose accomplished. Vide ss. 3 and 9 of principal Ordinance. |
| " c. 11 | To amend c. 24 of 1903, sess. 1 (Noxious Weeds) | " | 895<br>897 | Purpose accomplished. Vide s. 2, subsec. (1) and s. 14 of principal Ordinance as amended. |
| " c. 12 | To amend c. 29 of 1903, sess. 2 (Game Protection) | " | 341 | Purpose accomplished. Vide note as to disposition of principal Ordinance. |
| " c. 13 | To amend c. 87 of C.O. (Prairie and Forest Fires) | " | 949 | Purpose accomplished by revision of s. 12 of principal Ordinance. |

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| " | c. 14 | To amend c. 89 C.O. (Intoxicating Liquor) | " | 62. | Purpose accomplished in revision of principal Ordinance. See note as to disposition ss. 3, cl. (5) 24, subsec. (8) 36, subsec. (4), 112, 122, Form B schedule 1, Forms H, L and M affected. |
| " | c. 15 | To Enlarge City of Moose Jaw | " | ----- | Omitted. Local. |
| " | c. 16 | To Legalise Bylaws, Moose Jaw | " | ---- | Omitted. Local. |
| " | c. 17 | To Confirm Bylaw Regina | " | ----- | Omitted. Local. |
| " | c. 18 | To amend No. 42 of 1898 (Medicine Hat) | " | ----- | Omitted. Local. Alberta. |
| " | c. 19 | City of Edmonton | " | ----- | Omitted. Special incorporation. Alberta. |
| " | c. 20 | City of Prince Albert | " | ----- | Omitted. Special incorporation. |
| " | c. 21 | Public Works, Strathcona | " | ------ | Omitted. Special. Alberta. |
| " | c. 22 | Maple Creek General Hospital | " | ----- | Omitted. Special incorporation. |
| " | c. 23 | Lady Minto Hospital, Indian Head | " | ----- | Omitted. Special incorporation. |
| " | c. 24 | To amend c. 39 of 1903 (1) (Western Canada College | " | ----- | Omitted. Special. Alberta. |
| " | c. 25 | Alberta College | " | ----- | Omitted. Special incorporation. Alberta. |
| " | c. 26 | Alberta Club | " | ----- | Omitted. Special. Alberta. |
| " | c. 27 | The Indian Head Club | " | ----- | Omitted. Special incorporation. |
| " | c. 28 | The English Club | " | ------ | Omitted. Special incorporation. |
| " | c. 29 | To amend c. 42 of 1903 (1) (Russo Greek Church) | " | ----- | Omitted. Special incorporation. |
| " | c. 30 | The Sisters of Mercy | " | ----- | Omitted. Special incorporation. |
| " | c. 31 | The Order of St. Benedict | " | ----- | Omitted. Special incorporation. |
| " | c. 32 | Range Stock Growers' Association | " | ------ | Omitted. Incorporation. Alberta. |
| " | c. 33 | D. R. Fraser and Company, Ltd. | " | ------ | Omitted. Special incorporation. Alberta. |
| " | c. 34 | Strathcona Radial Tramway Co., Ltd. | " | ------ | Omitted. Special. Alberta. |
| " | c. 35 | Investors' Guarantee Corporation | " | - --- | Omitted. Special incorporation. |

THE

# PUBLIC GENERAL ORDINANCES

OF THE

# NORTH-WEST TERRITORIES

*PUBLISHED BY AUTHORITY*

## ACTION.

*See* CHOSES IN ACTION.
JUDICATURE.
LIMITATION OF ACTIONS.

## ACCIDENTS.

*See* COMPENSATION TO FAMILIES.
COMPENSATION TO WORKMEN.
FIRE INVESTIGATION.
WORKMEN'S COMPENSATION.

## ADMINISTRATION.

*See* JUDICATURE ORDER XLVI.
PUBLIC ADMINISTRATORS.
TRUSTEES.

## ADVOCATES.

*See* LEGAL PROFESSION.

## AGENTS.

*See* FACTORS AND AGENTS.

## AGRICULTURE.

*See* AGRICULTURAL SOCIETIES.
AGRICULTURE DEPARTMENT.

# AGRIÇULTURAL SOCIETIES.

1903, Session 1, c. 17

## An Ordinance respecting Agricultural Societies.

19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Agricultural Societies Ordinance."* 1903 Sess. 1, c. 17, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance, unless the context otherwise requires:

1. The expression "department" means the department of agriculture;

2. The expression "commissioner" means the commissioner of agriculture;

3. The expression "society" means any agricultural society organised or continued under this Ordinance. 1903 Sess. 1, c. 17, s. 2.

### OBJECTS OF AGRICULTURAL SOCIETIES.

Objects of societies

**3.** The objects of a society shall be to encourage improvement in agriculture, horticulture, arboriculture, manufactures and the useful arts:

1. By holding meetings for the delivery of lectures and for the discussion of subjects connected with the theory and practice of any of the said industries;

2. By promoting the circulation of agricultural, pastoral, horticultural, arboricultural and mechanical periodicals, and by the formation and maintenance of a reference library on such subjects for the use of its members;

3. By importing and otherwise procuring seeds, plants and animals of new or valuable kinds;

4. By holding exhibitions as hereinafter provided at which prizes may be awarded for:

(*a*) Excellence in the raising or introduction of live stock;

(*b*) The invention or improvement of agricultural machines or implements;

(c) The production of grains and all kinds of vegetables, plants, flowers and fruits, home manufactures and works of art; and generally for excellence in any agricultural production or operation;

5. By offering prizes for essays on subjects relating to agriculture, including the prevention of prairie fires and the eradication of noxious weeds;

6. By taking action to eradicate poisonous and noxious weeds and to exterminate such animals as are found to injure or impede agriculture;

7. By carrying on experiments in the growing of crops, the feeding of stock or any other branch of agriculture or by testing any system of farming;

8. By affiliating and co-operating with associations organised to improve live stock or encourage grain growing, dairying, forestry or fruit growing or promote the study of plant life or the destruction of injurious insects and plants. 1903 Sess. 1, c. 17, s. 3.

**4.** The funds of agricultural societies howsoever derived shall not be expended for any objects inconsistent with those authorised by this Ordinance. **Expenditure of funds**

(2) Such funds shall be deposited from time to time to the credit of the society in a chartered bank or other banking house; and all cheques shall be signed by the president or a vice president and the treasurer or secretary treasurer of the society. 1903 Sess. 1, c. 17, s. 4.

### EXISTING SOCIETIES CONTINUED.

**5.** All agricultural societies established and in operation at the time of the coming into force of this Ordinance shall be continued as agricultural societies under and subject to the provisions of this Ordinance and the present officers of such societies shall continue to hold office as such until the next annual meeting of the society. 1903 Sess. 1, c. 17, s. 5. **Existing societies**

### ORGANISATION OF SOCIETIES.

**6.** An agricultural society may be formed under the provisions hereof in the following manner:

1. An application in form A in the schedule hereto and containing the information indicated as required thereby shall be signed by not less than fifty persons all being over eighteen years of age and residents of the Territories and not being members of any other agricultural society;

Organisation

2. Every person signing the said application shall pay at least one dollar as or as part of his first annual subscription to the funds of the proposed society and such moneys shall be paid to and be held by one of the subscribers in trust for the society;

3. The application shall be verified by an affidavit of one of the subscribers in the form appended to said form A;

4. The application so verified shall be transmitted to the commissioner who if he approves thereof shall declare the subscribers thereto to be organised into a society under the name of "The Agricultural Society," and shall issue a certificate of such organisation in form B in the schedule hereto and thereupon the society shall be deemed to be formed and it shall be a corporation and in addition to its other rights as such it shall have the power to hold real estate necessary for the objects of the society; but any society may subject to the permission of the commissioner change its name at any time. 1903 Sess. 1, c. 17, s. 6.

First meeting of members

7. As soon as practicable after the formation of the society a meeting of the subscribers and of such other persons as may desire to become members thereof which shall be the first annual meeting of the society shall be held at the call of such person as the commissioner may nominate for that purpose and at such time and place and with such prior public notice as he may direct. 1903 Sess. 1, c. 17, s. 7.

Report to be sent to department

8. A report of the said meeting certified by the president and secretary which shall contain a statement of the number of members and a list of the officers elected and appointed shall be sent by the secretary to the department within one week after the meeting. 1903 Sess. 1, c. 17, s. 8.

### MEMBERSHIP.

Persons eligible for membership

9. Any person who would have been qualified to sign an application for the formation of a society may become a member thereof at any time on payment to the treasurer of a membership fee of not less than one dollar.

(2) Payment of the said fee shall entitle the person paying it to the privileges of membership for the year for which it is paid.

(3) At the time of payment of his membership fee every member shall give to the treasurer the post office address to which all notices of meetings and other notices shall be sent,

(4) Subject to the bylaws of the society a firm or an incorporated company may become a member of any society by the payment of the regular fee; but the name of one person only shall in any one year be entered as the representative or agent of such firm or company and that person only shall exercise the privileges of membership in the society. 1903 Sess. 1, c. 17, s. 9.

### SUPERINTENDENT OF FAIRS.

**Officers appointed by commissioner**

**10.** The commissioner may from time to time appoint a superintendent of fairs and institutes and such other officers as may be required to carry out the provisions of this Ordinance and may appoint an inspector to examine the books and accounts of any society and may confer on him any or all of the powers which may be conferred on a commissioner appointed under the provisions of *An Ordinance respecting Inquiries Concerning Public Matters.* 1903 Sess. 1, c. 17, s. 10.

### OFFICERS OF SOCIETY.

**Officers**

**11.** The officers of the society shall consist of a president and two vice presidents who shall be *ex officio* directors and nine, twelve or fifteen additional elected directors as may be determined by the society, a secretary and a treasurer or a secretary treasurer and two auditors. 1903 Sess. 1, c. 17, s. 11.

**Qualification of voters and officers**

**12.** The persons qualified to vote for officers or to be elected shall be only those members who have paid their membership fee for the year in which the election is held. 1903 Sess. 1, c. 17, s. 12.

**Officers to be elected at first annual meeting**

**13.** At the first annual meeting all of the officers except the secretary and the treasurer or the secretary treasurer shall be elected by ballot. 1903 Sess. 1, c. 17, s. 13.

**Term of office of president elected at first meeting**

**14.** The president, vice presidents, directors and auditors elected at the first or any subsequent annual meeting shall hold office until the next following annual meeting. 1903 Sess. 1, c. 17, s. 14.

**Secretary treasurer**

**15.** The board of directors may from time to time appoint a secretary and a treasurer or a secretary treasurer who may be a director or directors and who shall hold office during pleasure. 1903 Sess. 1, c. 17, s. 15.

**Security to be given by treasurer**

**16.** The treasurer or secretary treasurer of every society before entering upon the duties of his office and within one month after his appointment shall give such security as the board of directors may deem necessary for the faithful performance of his duties including the due accounting for and payment over of all moneys which may come into his hands; and it shall be the duty of the directors to inquire into the sufficiency of such security and to report thereon to the department forthwith after its completion.

(2) No grant shall be paid to any society under this Ordinance unless and until the directors shall have reported that the security of the treasurer or secretary treasurer has been approved by them. 1903 Sess. 1, c. 17, s. 16.

Vacancy in office

**17.** In the event of an officer of an agricultural society dying or resigning office or in any other way vacating his office during the period for which he has been elected the board of directors shall appoint an eligible person to fill the office for the unexpired term of the person so vacating office. 1903 Sess. 1, c. 17, s. 17.

Commissioner may call meetings, etc., in certain cases

**18.** If at any time there shall be no officers of a society or if there is an insufficient number of officers and they do not act the commissioner may authorise any person to call a meeting of the society for any purpose or to take such other action as the commissioner may deem proper in the interests of the society. 1903 Sess. 1, c. 17, s. 18.

MEETINGS OF SOCIETY.

Annual meeting of society

**19.** Every agricultural society shall hold an annual meeting within the first ten days of the month of December in each year at such time and place as may be decided on by the board of directors. 1903 Sess. 1, c. 17, s. 19.

Notice of annual meeting

**20.** At least two weeks' previous notice of the time and place of holding an annual or other meeting of a society shall be given by the secretary by written or printed notice mailed to each member of the society and such additional notice as the directors may decide. 1903 Sess. 1, c. 17, s. 20.

Substituted meetin

**21.** In case any society shall through any cause fail to hold its annual meeting within the time appointed the commissioner may appoint a time for holding the same and the meeting shall be called by the secretary or by some person appointed for that purpose by the commissioner in the same way as the regular annual meeting and this meeting shall in all particulars be taken as the annual meeting of the society. 1903 Sess. 1, c. 17, s. 21.

**22.** The following shall be the order of business at annual meetings of agricultural societies: Order of business

1. Reading minutes of previous meeting;
2. Addresses and reports of officers;
3. Reports of committees;
4. Unfinished business;
5. New business;
6. Addresses and discussions;
7. Election of officers;
8. Adjournment. 1903 Sess. 1, c. 17, s. 22.

**23.** The board of directors shall at the annual meeting present: Reports of board of directors

(*a*) A report of their proceedings for the year with such remarks and suggestions upon the state of agricultural development in the district as they may see fit to offer;

(*b*) A statement showing the name, occupation and post office address of each member with the amount of his subscription to the society for the year opposite the name;

(*c*) A detailed statement of the receipts and expenditure of the society for the current financial year certified by the auditors;

(*d*) A statement of the assets and liabilities of the society certified by the auditors;

(*e*) A statement showing the amount offered and also the amount actually paid in prizes for each kind of live stock, agricultural and domestic products, manufactured articles or other objects respectively and the number of entries in each class;

(*f*) A report of each meeting held for the discussion of agricultural subjects giving the names of the speakers, the subjects of their addresses and the number of the persons present;

(*g*) A report upon any co-operative agricultural experiments carried out under the instructions of the department during the year. 1903 Sess. 1, c. 17, s. 23.

**24.** Meetings of the society other than the annual meeting may be held at any time that the board of directors may determine. 1903 Sess. 1, c. 17, s. 24. Other meetings

MEETINGS OF DIRECTORS.

Directors' meetings

**25.** Directors' meetings shall be held upon written notice mailed by the secretary to each officer under instructions from the president or in his absence from a vice president at least ten days before the day appointed for such meeting. 1903 Sess. 1, c. 17, s. 25.

QUORUM.

Quorum

**26.** Ten members shall constitute a quorum at a meeting of the society and five directors at a meeting of the directors. 1903 Sess. 1, c. 17, s. 26.

RETURNS.

Reports, etc., to be transmitted to department

**27.** A list of the officers elected at the annual meeting and a copy or summary of each report and statement presented thereat shall be transmitted to the department by the secretary upon the forms provided for the purpose on or before the twenty-third day of December in each year and in case these particulars are not transmitted from any agricultural society within this date it shall not receive any portion of any Territorial legislative grant unless the commissioner is satisfied by the explanations given that such delay was unavoidable or inadvertent in which case he may pay the grant which such society would be entitled to after deducting the sum of five dollars for each week of such delay. 1903 Sess. 1, c. 17, s. 27.

BYLAWS.

Bylaws and regulations

**28.** The members of each society may at an annual meeting or at a special meeting called for that purpose make, alter and repeal bylaws and regulations for the general management of the society and subject to such bylaws the board of directors shall have full power to act for and on behalf of the society and all grants and other funds of the society shall be received and expended under their direction.

(2) A copy of such bylaws and regulations shall be forthwith transmitted by the society to the department. 1903 Sess. 1, c. 17, s. 28.

REAL ESTATE.

Disposal of lands

**29.** The directors shall not sell, mortgage, lease for over a year or otherwise dispose of any real property owned by the society unless authorised to do so at a special meeting of the society called for the purpose of which at least a month's notice shall be given in the manner provided for calling such meetings.

(2) The notice calling such special meeting shall state the object for which the meeting is called. 1903 Sess. 1, c. 17, s. 29.

## EXHIBITIONS.

Exhibitions

**30.** An exhibition may be held by any agricultural society, board of management or any company organised for the purpose at such time and place as may be decided upon by the directors at a meeting called for that purpose. 1903 Sess. 1, c. 17, s. 30.

Prize list to be sent commissioner

**31.** If a society, board of management or any company organised for the purpose shall propose to hold an exhibition at which prizes are to be awarded the prize list shall be sent to the commissioner at least six weeks before the date upon which the exhibition is to be held. 1903 Sess. 1, c. 17, s. 31.

Union of societies for holding exhibitions

**32.** Two or more societies may by agreement between their respective boards of directors unite their funds or any portion thereof for the purpose of holding a joint agricultural or live stock exhibition.

Joint board of management

(2) In the case of such amalgamation the directors of the said societies or delegates appointed for such purpose by each board of directors shall meet and shall elect from among their number a president and first and second vice presidents, a secretary treasurer and at least eight persons who with the officers so elected shall be a board of management and shall have the charge and management of the exhibition so to be held.

Directors voting

(3) The directors or delegates and members of the board of management shall at all meetings have the right to vote in person or by proxy.

Auditors of joint board

(4) One or more auditors shall be appointed at the meeting of the directors or delegates to examine and report on the accounts of such board of management and such report shall be presented by the directors of each society taking part in the joint exhibition at the next annual meeting of their society. 1903 Sess. 1, c. 17, s. 32.

## GRANTS.

Payment of grants

**33.** There may be paid out of any moneys appropriated by the Legislative Assembly for the aid of agricultural societies an amount to be calculated as follows:

1. To each society whose membership is shown to include at least fifty members who have paid their fees up to the date of the annual meeting which has held during the preceding year at least two meetings as provided in clause 1 of section 3 of this Ordinance, the sum of one dollar for each paid up member up to 150;

2. To each society which has during the preceding year undertaken co-operative agricultural experiments under the direction of the department, filed the returns required and complied with the instructions furnished in connection therewith, the sum of $5 for each experiment selected and carried out;

3. To each society holding an exhibition and to any incorporated company or board of management of a joint exhibition holding an exhibition and filing in the department on or before the twenty-third day of December following a return furnishing in respect of such exhibition the same information as is required of a society by clauses (*c*,) (*d*) and (*e*) of section 25, whose total expenditure for prizes at such exhibition exceeds $250 an amount equal to sixty-six and two-thirds per cent. of the amount actually paid out for such prizes, but not exceeding the sum of $1,000: Provided that the commissioner may withhold payment in respect to any prize offered which in his opinion is not calculated to promote the legitimate objects of an agricultural exhibition; and provided also that no incorporated company that permits voting by proxy or allows more than one vote to be exercised by each shareholder irrespective of the number of shares owned or controlled by such shareholder shall be entitled to any grant under this clause.

(2) In case the amount of the appropriation available shall not be sufficient to pay the total amount of the grants which would be payable under this section then such amount may be apportioned between those entitled *pro rata* on the same basis. 1903 Sess. 1, c. 17, s. 33.

### DISORGANISATION OF SOCIETIES.

**Proceedings for disorganisation of societies**

**34.** In the event of its appearing advisable that any society be disorganised the commissioner may order and declare that on and after a day to be named by him such society shall be disorganised and thereupon the same shall cease to exist and the officers thereof shall cease to hold office. 1903 Sess. 1, c. 17, s. 34.

**35.** Upon the disorganisation of any society the commissioner may appoint a liquidator or liquidators to adjust and settle the assets and liabilities of such society and such liquidator or liquidators so appointed shall have full power and authority to sell and dispose of and convert into money all the assets and property of such society and shall apply the same so far as the same will extend; first, in payment of his or their remuneration to be fixed by the commissioner; and secondly, in payment of the liabilities of the society; and the surplus, if any, shall be paid into the general revenue fund of the Territories. 1903 Sess. 1, c. 17, s. 35.

**Commissioners for settlement of affairs on disorganisation**

**36.** The Lieutenant Governor in Council may make regulations for the guidance of agricultural societies not inconsistent with the provisions of this Ordinance respecting the manner in which their official books and records are to be kept and governing the conduct and management of agricultural institute meetings, exhibitions and any other undertakings such societies are authorised to engage in.

**Regulations by Lieutenant Governor in Council**

(2) Any society that fails to carry out such regulations shall not be entitled to participate in any appropriation in aid of agricultural societies provided by the Legislative Assembly. 1903 Sess. 1, c. 17, s. 36.

**37.** Chapter 14 of the Ordinances of 1899 and chapter 21 of the Ordinances of 1900 are hereby repealed. 1903 Sess. 1, c. 17, s. 37.

**Repeal**

## SCHEDULE.

### FORM A.

APPLICATION FOR FORMATION OF SOCIETY.

To the Commissioner of Agriculture of the North-West Territories.

We the undersigned hereby apply to be formed into an agricultural society under the provisions of *The Agricultural Societies Ordinance.*

The proposed name of the society is "The Agricultural Society."

The proposed chief place of business of the society is at in the North-West Territories.

And the undersigned, each as to himself, says:

1. That he is over eighteen years of age;

2. That he is a resident of the North-West Territories;

3. That he is not a member of any other agricultural society;

4. That he has subscribed to the funds of the society the sum set opposite his name in the fourth column hereunder and that he has paid to said funds the sum set opposite his name in the fourth column hereunder.

Dated at this day of A. D. 1

| SIGNATURE | OCCUPATION | POST OFFICE ADDRESS | AMOUNT |
|---|---|---|---|
| | | | |

AFFIDAVIT VERIFYING APPLICATION.

Canada.
North-West Territories.
To wit:
I,
of
in the North-West Territories, make oath and say:

1. I am one of the subscribers to the foregoing (*or* annexed) application;

2. I verily believe that the statements made in the said application by each of said applicants are true;

3. The sum of dollars, being the total sum paid by said applicants towards the funds of the proposed Agricultural Society is now held by in trust for said society.

Sworn to before me at
in the North-West Territories
this day of
A. D. 1
(*Signature.*)

*A in and for the N.W.T.*

1903 Sess. 1, c. 17, Form A.

## FORM B.

THE NORTH-WEST TERRITORIES.

*The Agricultural Societies Ordinance.*

This is to certify that on the day of A.D. 1 , application was made to the Commissioner of Agriculture for the North-West Territories by (*here set out names and addresses of applicants*) for the formation of an agricultural society under the provisions of *The Agricultural Societies Ordinance,* to be known as The Agricultural Society and to have its chief place of business at in the said Territories and the requirements of the said Ordinance as to matters preliminary having been complied with it is hereby declared that the said agricultural society has been this day organised under the name of The Agricultural Society and having its chief place of business as aforesaid and subject in all respects to the provisions of the said Ordinance.

Dated at Regina this day of A.D. 1 .

*Commissioner of Agriculture.*
1903 Sess. 1, c. 17, Form B.

## AGRICULTURE DEPARTMENT.

### An Ordinance respecting the Department of Agriculture.

C. O. 1898, c. 8
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

**1.** This Ordinance may be cited as *"The Agriculture Department Ordinance."* C. O. 8, s. 1. Short title

ORGANISATION, OFFICERS AND FUNCTIONS OF DEPARTMENT.

**2.** There shall be a department of the public service of the Territories to be called the department of agriculture over which the member of the Executive Council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the commissioner of agriculture for the time being shall preside. C. O. 8, s. 2. Organisation; Commissioner of Agriculture

**3.** All that part of the administration of the government of the Territories which relates to agriculture, statistics and the public health (including hospitals) shall be under the control of the department. C. O. 8, s. 3. Province of department

**4.** The Lieutenant Governor may at any time appoint such other officers, clerks or servants as may be required to carry Officers and clerks on the business of the department all of whom shall hold office during pleasure. C. O. 8, s. 4.

Duties of department

**5.** It shall be the duty of the department to institute inquiries and collect facts and statistics relating to agricultural, manufacturing or other interests of the Territories; and to adopt measures for circulating and disseminating the same in such manner and form as may be found best adapted to promote the progress of the Territories; and to see to the observance and execution of the provisions contained in all Ordinances relating to agriculture, statistics and public health. C. O. 8, s. 5.

Annual report

**6.** A report of the work of the department shall be prepared yearly and laid on the table of the Legislative Assembly within fifteen days after the commencement of the next ensuing session thereof; and it shall be the duty of the department from time to time to issue such reports, circulars and other publications as the minister may deem advisable. C. O. 8, s. 6.

Persons required to furnish information to department

**7.** All officers of all agricultural societies, municipal councils, villages, local improvement districts, school boards, public institutions, incorporated companies and all public officers of the Territories and all medical practitioners and veterinary surgeons shall promptly answer all communications from the department; and shall from time to time collect and tabulate facts according to instructions to be furnished them from the department; and shall make diligent efforts to supply correct information on all questions submitted to them; and any such person neglecting or refusing to comply with the aforesaid provisions of this section (when requested to so comply by the minister) shall be guilty of an offence and on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $25. C. O. 8, s. 7.

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## AID TO HOSPITALS.

*See* HOSPITALS.

# ALIMONY.

## An Ordinance respecting Alimony.

C.O. 1898 c. 29
15th March,
1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Jurisdiction of the Supreme Court of the Territories in alimony

1. The Supreme Court of the North-West Territories shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England or to any wife who would be entitled by the law of England to a divorce and to alimony as incident thereto or to any wife whose husband lives separate from her without any sufficient cause and under circumstances which would entitle her by the law of England to a decree for restitution of conjugal rights; and alimony when granted shall continue until the further order of the court. C. O. 29, s. 1.

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# ANIMALS.

*See* BRANDS.
ENTIRE ANIMALS.
GAME.
HERDING OF ANIMALS.
HORSE BREEDERS.
INSPECING OF STOCK.
POUND DISTRICTS.
PROTECTION OF ANIMALS FROM DOGS.
STOCK INJURED BY RAILWAY TRAINS.
STRAY ANIMALS.

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# ARBITRATION.

## An Ordinance respecting Arbitration.

C.O. 1898, c. 35
15th March,
1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

1. This Ordinance may be cited as *"The Arbitration Ordinance."* C. O. 35, s. 1.

### INTERPRETATION.

Interpretation

2. In this Ordinance unless the contrary intention appears:

'Submission" 1. "Submission" means a written agreement to submit present or future differences to arbitration whether an arbitrator is named therein or not;

"Court" 2. "Court" means the Supreme Court of the North-West Territories;

"Judge" 3. "Judge" means a judge of the Supreme Court of the North-West Territories;

"Rules of court" 4. "Rules of Court" means the rules of the Supreme Court of the North-West Territories. C. O. 35, s. 2.

### REFERENCES BY CONSENT OUT OF COURT.

Effect of submission **3.** A submission unless a contrary intention is expressed therein shall be irrevocable except by leave of the court or a judge and shall have the same effect in all respects as if it had been made an order of court. C. O. 35, s. 3.

Submission includes provisions in schedule **4.** A submission unless a contrary intention is expressed therein shall be deemed to include the provisions set forth in the schedule to this Ordinance so far as they are applicable to the reference under submission. C. O. 35, s. 4.

Stay of proceedings **5.** If any party to a submission or any person claiming through or under him commences any legal proceedings in any court against any other party to the submission or any person claiming through or under him in respect to any matter agreed to be referred any party to such legal proceedings may at any time after appearance and before delivering any pleadings or taking any other steps in the proceedings apply to that court to stay the proceedings; and that court or a judge thereof if satisfied that there is no sufficient reason why the matter should not be referred in accordance with the submission and that the applicant was at the time when the proceedings were commenced and still remains ready and willing to do all things necessary to the proper conduct of the arbitration may make an order staying the proceedings. C. O. 35, s. 5.

Appointment of arbitrator in certain cases **6.** In any of the following cases:

(*a*) Where a submission provides that a reference shall be to a single arbitrator and all the parties do not after differences concur in the appointment of an arbitrator;

(*b*) If an arbitrator refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties do not supply the vacancy;

(*c*) Where the parties or two arbitrators are at liberty to appoint an umpire or third arbitrator and do not appoint him;

(*d*) Where an appointed umpire or arbitrator refuses to act or is incapable of acting or dies and the submission does not show that it was intended that the vacancy should not be supplied and the parties or arbitrators do not supply the vacancy;

any party may serve the other parties or the arbitrators as the case may be with a written notice to appoint an arbitrator, umpire or third arbitrator; if the appointment is not made within seven clear days after the service of the notice the court or a judge may on application by the party who gave the notice appoint an arbitrator, umpire or third arbitrator who shall have the like powers to act in the reference and make an award as if he had been appointed by consent of all parties. C. O. 35, s. 6.

**Appointment of arbitrators, where two required**

**7.** Where a submission provides that the reference shall be to two arbitrators one to be appointed by each party then unless the submission expresses a contrary intention:

1. If either of the appointed arbitrators refuses to act or is incapable of acting or dies the party who appointed him may appoint a new arbitrator in his place;

2. If on such a reference one party fails to appoint an arbitrator either originally or by way of substitution as aforesaid for seven clear days after the other party having appointed his arbitrator has served the party making default with notice to make the appointment the party who has appointed an arbitrator may appoint that arbitrator to act as sole arbitrator in the reference and his award shall be binding on both parties as if he had been appointed by consent:

Provided that the court or a judge may set aside any appointment made in pursuance of this section. C. O. 35, s. 7.

**Powers of arbitrator**

**8.** The arbitrators or umpire acting under a submission shall unless the submission expresses a contrary intention have power:

1. To administer oaths to or take the affirmations of the parties and witnesses appearing; and

2. To state an award as to the whole or part thereof in the form of a special case for the opinion of the court; and

3. To correct in an award any clerical mistake or error arising from any accidental slip or omission. C. O. 35, s. 8.

Summoning of witnesses

**9.** For the purpose of procuring the attendance of a witness at an arbitration any party to a submission may sue out a writ of subpœna *ad testificandum* or a writ of subpœna *duces tecum* but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(2) Such writs may be obtained from any clerk of the court or deputy clerk of the court on payment of the fees prescribed in *The Judicature Ordinance.* C. O. 35, s. 9.

Enlargement of time for award

**10.** The time for making an award may from time to time be enlarged by order of the court or a judge whether the time for making an award has expired or not. C. O. 35, s. 10.

Reconsideration by arbitrator

**11.** In all cases of reference to arbitration the court or a judge may from time to time remit the matters referred or any of them to the reconsideration of the arbitrators or umpire.

(2) Where an award is remitted the arbitrators or umpire shall unless the order otherwise directs make their award within six weeks after the date of the order. C. O. 35, s. 11.

Misconduct of arbitrator

**12.** Where an arbitrator or umpire has misconducted himself the court or a judge may remove him.

Setting aside award

(2) Where an arbitrator or umpire has misconducted himself or an arbitration or award has been improperly procured the court may set the award aside. C. O. 35, s. 12.

Enforcement of award

**13.** An award on a submission may by leave of the court or a judge be enforced in the same manner as a judgment or order to the same effect. C. O. 35, s. 13.

### GENERAL.

Attendance of witness before referee or arbitrator

**14.** The court or a judge may order that a writ of subpœna *ad testificandum* or of subpœna *duces tecum* shall issue to compel the attendance before an official or special referee or before any arbitrator or umpire of a witness wherever he may be within the Territories.

(2) The court or a judge may also order that a writ of *habeas corpus ad testificandum* shall issue to bring up a prisoner for examination before an official or special referee or before any arbitrator or umpire. C. O. 35, s. 14.

Special case for opinion of court

**15.** Any referee, arbitrator or umpire may at any stage of the proceedings under a reference and shall if so directed by the court or a judge state in the form of a special case for the opinion of the court any question of law arising in the course of the reference. C. O. 35, s. 15.

Costs

**16.** Any order made under this Ordinance may be made on such terms as to costs or otherwise as the authority making the order thinks just. C. O. 35, s. 16.

Directions for arbitration to be deemed submission

**17.** Whenever it is directed by any Ordinance that any party or parties shall proceed to the appointment of arbitrators or appoint arbitrators as provided by this Ordinance or that any party or parties shall proceed to arbitration under this Ordinance or any similar direction shall be made with respect to arbitration under this Ordinance such direction shall be deemed a submission. C. O. 35, s. 17.

## SCHEDULE.

Single arbitrator

(*a*) If no other mode of reference is provided the reference shall be to a single arbitrator.

Umpire

(*b*) If the reference is to two arbitrators the two arbitrators may appoint an umpire at any time within the period during which they have power to make an award.

Time and manner of award

(*c*) The arbitrators shall make their award in writing within six weeks after entering on the reference or after having been called on to act by notice in writing from any party to the submission or on or before any later day to which the arbitrators by any writing signed by them may from time to time enlarge the time for making the award.

Arbitrators not agreeing umpire to act

(*d*) If the arbitrators have allowed their time or extended time to expire without making an award or have delivered to any party to the submission or to the umpire a notice in writing stating that they cannot agree the umpire may forthwith enter on the reference in lieu of the arbitrators.

Time for umpire's award

(*e*) The umpire shall make his award within one month after the original or extended time appointed for making the award of the arbitrators has expired or on or before any later day to which the umpire by any writing signed by him may from time to time enlarge the time for making his award.

Examination of parties

(*f*) The parties to the reference and all persons claiming through them respectively shall subject to any legal objection submit to be examined by the arbitrators or umpire on oath or affirmation in relation to the matters in dispute and shall subject as aforesaid produce before the arbitrators or umpire all books, deeds, papers, accounts, writings and documents within their possession or power respectively which may be required or called for and do all other things which during the proceedings on the reference the arbitrators or umpire may require.

Production of papers

Oath or affirmation

(*g*) The witnesses on the reference shall if the arbitrators or umpire think fit be examined on oath or affirmation.

Finality of award

(*h*) The award to be made by the umpire or arbitrators shall be final and binding on the parties and the persons claiming under them respectively.

Costs of reference

(*i*) The costs of the reference and award shall be in the discretion of the arbitrators or umpire who may direct to and by whom and in what manner the costs or any part thereof shall be paid and may tax or settle the amount of costs to be so paid or any part thereof. C. O. 35, Schedule.

## ASSESSMENT.

*See* ASSESSMENT OF RAILWAYS.
IRRIGATION DISTRICTS.
LOCAL IMPROVEMENT.
MUNICIPAL.
SCHOOL.
VILLAGE.

## ASSESSMENT OF RAILWAYS.

C.O. 1898, c. 71
15th March, 1899

### An Ordinance respecting Assessment of Railways.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Annual statement of railway company to municipality and school district

**1.** Every railway company whose railway is not exempt from taxation shall annually transmit on or before the first day of February to the secretary treasurer of every municipality and to the secretary or other officer of every public school district through which the company's railway may run a statement to be signed by some authorised official of the company showing:

1. The quantity of land other than the roadway owned or occupied by the company which is liable to assessment;

2. The quantity of the land occupied by the roadway. C. O. 71, s. 1.

Lands to be assessed

**2.** The secretary treasurer of such municipality or the secretary of the school district as the case may be shall communicate such statement to the assessor of the municipality or school district as the case may be who shall assess the lands described therein as other lands within the municipality or school district and who shall deliver at or transmit by post to the nearest station or office of the company a notice addressed to such company stating the amounts at which the land of such company and the roadway and superstructure have been assessed. C. O. 71, s. 2.

Roadway and superstructure assessment

**3.** Whether such statement in section 1 of this Ordinance is placed in the hands of the assessor of any such municipality or school district or not the assessor of every municipality or school district as the case may be shall assess the lands of such railway company and the roadway thereof and the superstructure of such roadway and give such notice as is required by section 2 hereof:

Provided that the roadway and superstructure thereon shall not be assessed at a greater value than $1,000 per mile. C. O. 71, s. 3.

Collection of taxes

**4.** Such taxes shall be payable to the municipality or school district as the case may be making such assessment and shall be collectable in the same manner as other taxes. C. O. 71, s. 4.

Exemption

**5.** Railway companies shall not be liable for assessment in any school district or municipality in the Territories for the payment of any debenture indebtedness existing on the thirty-first day of December, 1892. C. O. 71, s. 5.

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## ASSEMBLY.

*See* ELECTIONS.
CONTROVERTED ELECTIONS.
LEGISLATIVE ASSEMBLY.

## ASSIGNMENTS.

*See* ASSIGNMENTS FOR CREDITORS.
CHOSES IN ACTION.
PREFERENTIAL ASSIGNMENTS.

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## ASSIGNMENTS FOR CREDITORS.

1900, c. 11

### An Ordinance respecting Assignments for the General Benefit of Creditors.

4 May, 1900

[*Assented to May 4, 1900.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Assignment to be made to resident of judicial district

**1.** No assignment for the general benefit of creditors shall be valid or effectual as a transfer, assignment or conveyance of the property therein mentioned and described unless such assignment is made to some person or persons residing in the judicial district within which the assignor resides or carries on business. 1900 c. 11, s. 1. (a).

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## ASSOCIATIONS.

*See* CEMETERIES.
COMPANIES.
DAIRY ASSOCIATIONS.
MECHANICS AND LITERARY INSTITUTES.
PARTNERSHIP.
PHARMACEUTICAL ASSOCIATION.
SOCIETIES.

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## ATTORNEY GENERAL'S DEPARTMENT.

C.O. 1898, c. 6
15 March, 1899

### An Ordinance respecting the Department of the Attorney General.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Attorney General's Ordinance."* C. O. 6, s. 1.

### ORGANISATION AND FUNCTIONS OF DEPARTMENT.

Organisation

**2.** There shall be a department of the civil service of the Territories to be called the department of the attorney general over which the member of the Executive Council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the attorney general for the time being shall preside; and the said attorney general shall *ex officio* be Her Majesty's attorney general in and for the Territories. C. O. 6, s. 2.

Duties

**3.** The duties of the attorney general shall be as follows:

(*a*) He shall be the official legal adviser of the Lieutenant Governor and the legal member of the Executive Council;

(*b*) He shall see that the administration of public affairs is in accordance with law;

(*c*) He shall have the superintendence of all matters connected with the administration of justice in the Territories within the powers or jurisdiction of the Legislative Assembly or Government of the Territories;

(*d*) He shall advise upon the legislative acts and proceedings of the Legislative Assembly of the Territories and generally advise the Crown upon all matters of law referred to him by the Crown;

(*e*) He shall be entrusted with the powers and charged with the duties which belong to the attorney general and solicitor general of England by law or usage so far as the same powers and duties are applicable to the Territories; and also with the powers and duties which by the laws of Canada and of the Territories to be administered and carried into effect by the Government of the Territories belong to the office of the attorney general and solicitor general;

(*f*) He shall advise the heads of the several departments of the Government upon all matters of law connected with such departments respectively;

(*g*) He shall be charged with the settlement of all instruments issued under the seal of the Territories;

(*h*) He shall have the regulation and conduct of all litigation for or against the Crown or any public department in respect of any subjects within the authority or jurisdiction of the Legislative Assembly;

(*i*) He shall be charged generally with such duties as may be at any time assigned by law or by the Lieutenant Governor in Council to the attorney general of the Territories. C. O. 6, s. 3.

Officers and clerks

**4.** The Lieutenant Governor in Council may appoint such other officers, clerks and servants as are required for the proper conduct of the business of the department, all of whom shall hold office during pleasure. C. O. 6, s. 4.

FORMER ACTS LEGALISED.

Validity of former acts

**5.** All acts heretofore done or appointments made in conformity with or to the effect of any of the provisions herein are declared to have been and to be legal and valid. C. O. 6, s. 5.

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# AUCTIONEERS.

C.O. 1898, c. 58
15 March, 1899

## An Ordinance respecting Auctioneers, Hawkers and Pedlers.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Interpretation "hawker" "pedler"

**1.** In this Ordinance the expression "hawker" or "pedler" means and includes any person who (being a principal or any agent in the employ of any person) goes from house to house selling or offerng for sale any goods, wares or merchandise or carries and exposes samples or patterns of any goods, wares or merchandise to be afterwards delivered within the Territories to any person not being a wholesale or retail dealer in such goods, wares or merchandise; but shall not mean or include any person selling meat, fish, fruit, agricultural implements, sewing machines or farm produce by retail. C. O. 58, s. 1.

**2.** No person shall follow the calling or pursue the business of an auctioneer, hawker or pedler within the Territories without having first obtained a license therefor which license shall be issued by such person as the Lieutenant Governor in Council may authorise. C. O. 58, s. 2. **License to pursue certain callings**

**3.** Every applicant for a hawker's or pedler's license shall as part of his application for such license furnish a statement in writing containing a full description of the goods, wares and merchandise which he proposes to sell or offer for sale under such license. C. O. 58, s. 3. **Application for license**

**4.** On every application for a license under this Ordinance there shall be paid: **Fees payable**

(*a*) For a hawker's or pedler's license the sum of $25;

(*b*) For an auctoneer's license, on first application therefor, the sum of $10 and on every subsequent consecutive application the sum of $5. C. O. 58, s. 4.

**5.** No hawker or pedler shall sell or offer for sale any goods, wares or merchandise other than those set forth in his application for license. C. O. 58, s. 5. **Hawker's sales limited**

**6.** Every license issued under this Ordinance shall expire on the thirty-first day of December of the year in which it is issued. C. O. 58, s. 6. **Duration of license**

**7.** Any person violating the provisions of this Ordinance shall be liable on summary conviction thereof to a fine not exceeding $100 and costs of prosecution. C. O. 58, s. 7. **Penalty**

**8.** The provisions of this Ordinance shall not apply within a municipality nor shall any license be issued under the provisions hereof in any such municipality. C. O. 58, s. 8. **Municipalities excepted**

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## AUDIT.

*See* LOCAL IMPROVEMENT DISTRICTS.
MUNICIPAL.
OFFICIAL AUDITORS.
SCHOOLS.
TREASURY DEPARTMENT.
VILLAGES.

# BEET SUGAR FACTORIES.

1901, c. 24

## An Ordinance respecting the Exemption from Taxation of Beet Sugar Factories.

12 June, 1901

[*Assented to June 12, 1901.*]

WHEREAS it is desirable to promote the settlement of vacant lands in the Territories and to induce immigration by encouraging the establishment of factories for the conversion of beets into sugar;

Therefore the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

No assessment to be made by any municipality, etc., hereafter incorporated for 20 years

**1.** No assessment shall be made or levied by any municipality, town or village or other corporation possessing powers of taxation or assessment that may be incorporated, established or erected after the passing hereof upon any buildings, machinery, pipes or conduits or works of any kind actually in use and required for or in connection with the crushing or reducing of beets or their conversion into sugar or other saccharine products until the expiration of twenty years from the date on which this Ordinance shall come into force. 1901 c. 24, s. 1.

Not to affect existing municipalities, etc.

**2.** Nothing in this Ordinance shall be construed as affecting or curtailing any power of assessment or taxation now possessed by any municipality, town or village or other corporation incorporated, established or erected at the date of coming into force of this Ordinance. 1901 c. 24, s. 2.

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# BENEVOLENT SOCIETIES.

C.O. 1898, c. 66
15 March, 1899

## An Ordinance respecting Benevolent and other Societies.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Power to form societies for certain purposes

**1.** Any five or more persons of full age may become incorporated under this Ordinance for any benevolent or provident purpose or for any other purpose not illegal save and except for the purpose of trade or business or any purpose provided for by any of the Ordinances mentioned in the schedule hereto. C. O. 66, s. 1.

Mode of incorporation

**2.** The proceedings to obtain incorporation shall be as follows:

1. Such persons shall make and sign a declaration in writing setting forth the intended corporate name of the society, the purpose of the society, the names of those who are to be the first trustees or managing officers, the mode in which their successors are to be appointed and such other particulars and provisions as the society may think fit provided that the said particulars and provisions are not contrary to law;

2. The declaration may be made and signed in duplicate or in as many parts as may be required;

3. The said declaration may be produced to any judge of the Supreme Court of the North-West Territories and if the same appears to him to be in conformity with this Ordinance he shall indorse thereon a certificate to that effect;

4. One of the original parts of the said declaration shall be filed in the office of the registrar of the said Supreme Court at Regina and the fee of fifty cents shall accompany such filing;

5. When these directions shall have been complied with the persons who signed the declaration shall thereby become and they, their associates and successors shall thenceforward be a body corporate and politic and shall have the powers, rights and immunities vested by law in such bodies. C. O. 66, s. 2.

Societies may establish branches

**3.** The society so incorporated may from time to time have or establish and maintain any number of branches thereof to promote the objects of the society. C. O. 66, s. 3.

Officers

Bylaws and rules

**4.** The society may from time to time appoint trustees, a treasurer, a secretary and other officers for conducting its affairs and for the discipline and management of the society; and may from time to time make bylaws, rules and regulations for the government and for conducting the affairs of the society or of any branches thereof; and may from time to time alter or rescind such bylaws, rules or regulations. C. O. 66, s. 4.

Different societies or branches may unite

**5.** Any two or more societies or branches of a society may unite and form one society or branch for the purpose of erecting buildings for the use of the societies or branches and if they so desire for other purposes on such terms as may be agreed upon by authority of a resolution assented to by a majority of the members of each of the said societies or branches proposed to be united:

Provided that every such resolution is passed at a general meeting of each of the societies or branches concerned in such union to be specially called for that purpose. C. O. 66, s. 5.

Liability of persons under age

**6.** A person under the age of twenty-one years elected or admitted as a member of a society or appointed to any office therein shall be liable to the payment of fees and otherwise under the rules of the society as if he were of full age. C. O. 66, s. 6.

Benefits to members

Exemption from claims of creditors

Payment in good faith to wrong person

**7.** When under the rules of the society money of the society becomes payable to or for the use or benefit of a member thereof such money shall be free from all claims by the creditors of such member; and when on the death of a member of a society any sum of money becomes payable under the rules of the society the same shall be paid by the treasurer or other officer of the society to the person or persons entitled under the rules thereof or shall be applied by the society as may be provided by such rules; and such money shall be to the extent of $2,000 free from all claims by the personal representative or creditors of the deceased; and in case any sum is paid in good faith to the person who appears to the treasurer or other officer to be entitled to receive the same or is applied in good faith for the purposes by the rules provided, no action shall be brought against the society or such treasurer or officer in respect thereof; but nevertheless if it subsequently appears that such money has been paid to the wrong person the person entitled thereto may recover the amount with interest from the person who has wrongfully received it. C. O. 66, s. 7.

Powers of societies as to holding lands

**8.** No society or branch incorporated under this Ordinance shall be entitled to acquire or hold as purchasers or otherwise any lands or tenements or any interests therein exceeding in the whole at any one time the annual value of $5,000 nor shall the society or branch be entitled to purchase land except for the actual use and occupation of the society for the purposes of the society. C. O. 66, s. 8.

Powers as to taking and retaining lands by gift, devise or bequest

**9.** Any such society or branch may from time to time take by gift, devise or bequest any lands or tenements or any interests therein provided such gift, devise or bequest is made at least six months before the death of the person making the same; but the society or branch shall at no time take by gift, devise or bequest lands or tenements or any interests therein, the annual value of which together with that of all other lands and tenements theretofore acquired by like means and then held by the society or branch, exceeds in the whole $1,000; nor shall the society or branch at any time take by gift, devise or bequest, lands, tenements or hereditaments the annual value of which, together with all the other real estate of the society or branch, exceeds $5,000; and no lands or tenements acquired by gifts, devise or bequest within the limits aforesaid, but not required for the acutal use or occupation of the society or branch, shall be held by the society or branch for a longer period than seven years after the acquisition thereof, and within such period the same shall be absolutely disposed of by the society or branch; and the society or branch shall have power within such period, in the name of the society or branch, to grant and convey the said lands and tenements to any purchaser so that the society or branch no longer retains any interest therein; and the proceeds on such disposition shall be invested in public securities, municipal debentures or other approved securties, not including mortgages on land, for the use of the society or branch; and lands, tenements or interests therein required by this Ordinance to be sold or disposed of by the society or branch which have not, within the said period, been so disposed of, shall revert to the person from whom the same were acquired, his heirs, executors, administrators or assigns. C. O. 66, s. 9.

Powers to sell, mortgage, etc., lands

**10.** Any society may in pursuance of a resolution assented to by a majority of the members present at a general meeting specially called for that purpose of which public notice shall be given in the manner provided by the bylaws mortgage, sell, exchange or lease any lands of the society. C. O. 66, s. 10.

Copy of declaration of incorporation to be evidence

**11.** A copy of the declaration under the second section of this Ordinance certified by the registrar of the said Supreme Court or his deputy to be a true copy shall be *prima facie* evidence of the facts alleged in the declaration and of the due making, signing and filing of the declaration as mentioned in the certificate; and a copy of the declaration with the certificate of the said registrar or his deputy showing the particulars necessary for creating a corporation under this Ordinance shall be *prima facie* evidence that the society or branch is an incorporated society or branch under this Ordinance. C. O. 66, s. 11.

Defects in form

**12.** No defect of form in the certificate of the judge or in the proceedings to which the certificate of the judge relates shall affect the validity of the incorporation. C. O. 66, s. 12.

Certificate of incorporation, its effects as evidence

**13.** To facilitate the proof of a society or branch being an incorporated society or branch under this Ordinance and to prevent any future question as to the same, the society or branch after the same has become incorporated as aforesaid, shall be entitled (if the society or branch thinks fit) to receive a certificate of such incorporation in manner hereinafter mentioned; and a certificate so obtained shall be final and conclusive evidence of the society or branch being an incoporation under this Ordinance unless the certificate on the order or decision of the court granting or authorising the same is reversed or set aside by some direct proceeding taken for the purpose; and the proceedings for the purpose of obtaining the certificate may be as follows:

Application for certificate

1. The application for the certificate may be made by the society or branch to a judge of the Supreme Court of the North-West Territories;

Evidence thereon

2. The application shall be supported by satisfactory evidence that the society or branch is a society or branch within the true intent and meaning of this Ordinance; that the proceedings necessary for incorporation have been duly taken; that four weeks notice of the intention to apply for a certificate has been given to the Lieutenant Governor of the Territories; and that a like notice has been published for four weeks in *The North-West Territories Gazette;* and if the judge is not satisfied with the evidence offered of these particulars in the first instance he may instead of dismissing the application give an opportunity or opportunities for producing further evidence; and if there is any defect in the proceedings taken to obtain incorporation the judge may permit the same to be supplied and he may in all cases require from time to time any further publication to take place and any other notice to be mailed, served or given which he deems necessary;

Issue of certificate

3. When the judge is satisfied that the society or branch is entitled to the certificate, the certificate may be issued by the clerk of the court of the judicial district in which the application is made, in duplicate (under his hand and the seal of the court) or in as many parts as may be required and the same shall name the day from and at which the incorporation was complete and effectual, and any person shall thereafter be entitled to receive a certificate to the same effect sealed and signed as aforesaid; which certificate or counterpart thereof shall be final and conclusive as hereinbefore mentioned;

Costs and practice

4. The judges of the Supreme Court of the North-West Territories shall have power to regulate the practice and costs in such cases. C. O. 66, s. 13.

Society to furnish statement of real property

**14.** It shall be the duty of the corporation when thereunto required by the Lieutenant Governor in Council or by the Legislative Assembly to furnish a statement of the real property and of the estates therein held by the society and to give such details thereof as the Lieutenant Governor in Council or the Legislative Assembly may from time to time require. C. O. 66, s. 14.

Change of name, etc., of society

**15.** When a society incorporated under the provisions of this Ordinance is desirious of changing its name or of changing any of the purposes contained in the original certficate or declaration of incorporation, a judge of the Supreme Court upon being satisfied that the change desired is not for an improper purpose and is not otherwise objectionable, may make an order reciting the certificate and declaration of incorporation and making the change desired.

Order to be filed

(2) Such order shall be filed in the office in which the certificate and declaration were filed and a copy of the order certified by the registrar of the Supreme Court at Regina or his deputy to be a true copy of the order filed in the said office shall be *prima facie* evidence of the change having been made as therein set forth.

Rights and obligations of society not affected

(3) No change under the next preceding two subsections shall affect the rights or obligations of the society and all actions or proceedings commenced by or against the society prior to the change of name may be proceeded with by or against the society under its former name. C. O. 66, s. 15.

Forms

**16.** In case the Lieutenant Governor in Council adopts or approves of any forms for any of the proceedings under this Ordinance and the order adopting or approving of the same is, with the forms, printed in *The North-West Territories Gazette* such forms shall be as effectual for the purposes mentioned in this Ordinance or in the Order in Council as if the said forms had been inserted in this Ordinance. C. O. 66, s. 16.

## SCHEDULE.

Ordinances for purposes not intended by this Ordinance:

1. Chapter 38 of *The Consolidated Ordinances.*
3. Chapter 61 of *The Consolidated Ordinances.*
2. Chapter 45 of *The Consolidated Ordinances.*
4. Chapter 65 of *The Consolidated Ordinances.*
5. Chapter 68 of *The Consolidated Ordinances.*
6. Chapter 69 of *The Consolidated Ordinances.*

# BILLS OF SALE.

*Principal Ordinance* .... .... .... C.O. 1898, c. 43
*Amending Ordinance* .... .... .... 1900. c. 12

C.O. 1898, c. 43
15 March, 1899

## An Ordinance respecting Mortgages and Sales of Personal Property.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited and known as *"The Bills of Sale Ordinance."* C. O. 43, s. 1.

### REGISTRATION DISTRICTS.

Registration districts

**2.** For the purposes of the registration of mortgages and other transfers of personal property in the Territories the following shall be registration districts:

Moosomin district

1. The registration district of "Moosomin," comprising that part of the provisional district of Assiniboia as is defined by the Order of the Privy Council of Canada passed on the eighth day of May, A.D. 1882, eastward of the eleventh range of townships west of the second meridian and south of a line which may be described as follows: Commencing at a point where the line between townships twenty and twenty-one in the Dominion Lands system of survey intersects the western boundary of the province of Manitoba, thence westerly following the said line between townships twenty and twenty-one to its intersection with the line between ranges seven and eight west of the second meridian, thence northerly along the line between ranges seven and eight to its intersection with the line between townships twenty-two and twenty-three, thence westerly along the line between the said townships twenty-two and twenty-three to its intersection with the line between ranges ten and eleven west of the second meridian in the Dominion Lands system of survey;

Yorkton district

2. The registration district of "Yorkton," comprising that part of the said provisional district of Assiniboia, eastward of the eleventh range of townships west of the second meridian and north of the north boundary of the registration district of Moosomin;

3. The registration district of "Regina," comprising that part of the said provisional district of Assiniboia west of the registration district of Moosomin and east of the west line of the twenty-third range of townships west of the second meridian; **Regina district**

4. The registration district of "Moose Jaw," comprising that part of the provisional district of Assiniboia west of the registration district of Regina and east of the west line of the twenty-third range of townships west of the third meridian; **Moose Jaw district**

5. The regisration district of "Medicine Hat," comprising all that portion of the said provisional district of Assiniboia west of the registration district of Moose Jaw; **Medicine Hat district**

6. The registration district of "Macleod," comprising all that portion of the provisional district of Alberta as defined by the said Order of the Privy Council lying south of township seventeen; **Macleod district**

7. The registration district of "Calgary," comprising all that part of the said provisional district of Alberta lying between townships sixteen and forty-three; **Calgary district**

8. The registration district of "Edmonton," comprising all that portion of the said provisional district of Alberta lying north of township forty-two; **Edmonton district**

9. The registration district of "Battleford" comprising all that portion of the provisional district of Saskatchewan as defined by the said Order of the Privy Council lying west of the fifth range of townships west of the third meridian; **Battleford district**

10. The registration district of "Prince Albert," comprising all that portion of the said provisional district of Saskatchewan lying east of the Battleford regstration district. **Prince Albert district**

(*2*) *The Lieutenant Governor in Council shall have power to alter the boundaries of any registration district now or hereafter established by adding thereto or taking therefrom; and to establish new districts and to appoint registration clerks therefor who shall hold office during pleasure; and designate at what places the offices of such clerks shall be kept.* C. O. 43, s. 2, and 1900 c. 12, s. 1. **New districts**

### REGISTRATION CLERKS.

**3.** The registration clerks for the existing registration districts are hereby continued in office and shall severally hold office during pleasure and their offices shall be kept at places to be designated by the Lieutenant Governor in Council. **Present clerks continued**

Appointments by Lieutenant Governor in Council

(2) In the event of any vacancy occurring in the office of registration clerk by reason of death, resignation or otherwise the vacancy shall be filled by the Lieutenant Governor in Council. C. O. 43, s. 3.

**4.** The registration clerks under this Ordinance shall keep their respective offices open between the hours of ten in the forenoon and four in the afternoon on all days excepting Sundays and holidays and except on Saturdays and during the period of vacation prescribed by *The Judicature Ordinance* when the same shall be closed at one o'clock in the afternoon and during office hours only shall registrations be made. C. O. 43, s. 4.

**5.** No registration clerk shall draw or prepare any document or conveyance which may be filed or registered in his office under the provisions of this or any other Ordinance. C. O. 43, s. 5.

## MORTGAGES AND SALES OF CHATTELS. FORM AND REGISTRATION.

**Mortgages unaccompanied by delivery and change of possession of goods**

**6.** Every mortgage or conveyance intended to operate as a mortgage of goods and chattels which is not accompanied by an immediate delivery and an actual and continued change of possession of the things mortgaged shall within thirty days from the execution thereof be registered as hereinafter provided together with the affidavit of a witness thereto of the due execution of such mortgage or conveyance and also with the affidavit of the mortgagee or one of several mortgagees or the agent of the mortgagee or mortgagees if such agent is aware of all the circumstances connected therewith and is properly authorised by power in writing to take such mortgage in which case a copy of such authority shall be attached thereto (save as hereinafter provided under section 21 hereof) such last mentioned affidavit stating that the mortgagor therein named is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, that it was executed in good faith and for the express purpose of securing the payment of money justly due or accruing due and not for the purpose of protecting the goods and chattels mentioned therein against the creditors of the mortgagor or of preventing the creditors of such mortgagor from obtaining payment of any claim against him; and every such mortgage or conveyance shall operate or take effect upon, from and after the day and time of the filing thereof. C. O. 43, s. 6.

**Mortgage may be in form appended**

**7.** Except as to cases provided in the next following section of this Ordinance a mortgage or conveyance intended to operate as a mortgage of goods and chattels may be made in accordance with form A in the schedule of this Ordinance. C. O. 43, s. 7. (b)

**Mortgage to secure future advances or to indemnify indorsers, etc.**

**8.** In case of an agreement in writing for future advances for the purpose of enabling the borrower to enter into and carry on business with such advances and in case of a mortgage of goods and chattels for securing the mortgagee repayment of such advances or in case of a mortgage of goods and chattels for securing the mortgagee against the indorsement of any bills or promissory notes or any other liability by him incurred for the mortgagor not extending for a longer period than two years from the date of the mortgage and in case the mortgage is executed in good faith and sets forth fully by recital or otherwise the terms, nature and effect of the agreement and the amount of liability intended to be created and in case such mortgage is accompanied by the affidavit of a witness thereto of the due execution thereof and by the affidavit of the mortgagee or one of several mortgagees or in case the agreement has been entered into and the mortgage taken by an agent duly authorised by writing to make such agreement and take such mortgage, in which case a copy of such authority shall be attached thereto, and if the agent is aware of the circumstances connected therewith, then, if accompanied by the affidavit of such agent, such affidavit whether of the mortgagee or his agent, stating that the mortgage truly sets forth the agreement entered into between the parties thereto and truly states the extent of the liability intended to be created by such agreement and covered by such mortgage and that such mortgage is executed in good faith and for the express purpose of securing the mortgagee repayment of his advances or against the payment of the amount of his liability for the mortgagor as the case may be, and not for the purpose of securing the goods and chattels mentioned therein against the creditors of the mortgagor nor to prevent such creditors from recovering any claims which they may have against such mortgagor and in case such mortgage is registered as hereinafter provided within thirty days from the execution thereof the same shall be as valid and binding as mortgages mentioned in the sixth section of this Ordinance. C. O. 43, s. 8.

**Sale of goods not attended by delivery and change of possession**

**9.** Every sale, assignment and transfer of goods and chattels not accompanied by an immediate delivery and followed by an actual and continued change of possession of the goods and chattels sold shall be in writing and such writing shall be a conveyance under the provisions of this Ordinance and shall be accompanied by an affidavit of a witness thereto of the due execution thereof and an affidavit of the bargainee or one of several bargainees or of the agent of the bargainee or bargainees duly authorised in writing to take such conveyance (a copy of which authority shall be attached to the conveyance) that the sale is *bona fide* and for good consideration as set forth in the said conveyance and not for the purpose of holding or enabling the bargainee to hold the goods mentioned therein against the creditors of the bargainor; and such conveyance and affidavits shall be registered as hereinafter provided within thirty days from the execution thereof otherwise the sale shall be absolutely void as against the creditors of the bargainor and as against subsequent purchasers or mortgagees in good faith. C. O. 43, s. 9.

Registration only affects district where made

**10.** Such registration shall only have effect in the registration district wherein such registration has been made. C. O. 43, s. 10.

Omission to register or false statement of consideration

**11.** In case such mortgage or conveyance and affidavits are not registered as hereinbefore provided or in case the consideration for which the same is made is not truly expressed therein the mortgage or conveyance shall be absolutely null and void as against creditors of the mortgagor and against subsequent purchasers or mortgagees in good faith for valuable consideration. C. O. 43, s. 11.

Amended c.15-1908-9

Description of property

Assignment for benefit of creditors

**12.** All the instruments mentioned in this Ordinance whether for the mortgage or sale, assignment or transfer of goods and chattels shall Set forth the names, Surnames, additions and Post office addresses of all parties thereto and shall contain such sufficient and full descripion of such goods and chattels ~~thereof~~ that the ~~same~~ same may be readily and easily known and distinguished except in the case of assignments for the general benefit of creditors in which case the description shall be sufficient if it is in the following words: "All my personal property which may be seized and sold under execution," or words to that effect. C. O. 43, s. 12.

Registration to be in district where property situate

**13.** The proper registration officer for instruments being mortgages and transfers of personal property shall be the clerk of the registration district in which the property described in the mortgage or transfer is at the time of the execution of the instrument; such registration clerks shall file all such instruments presented to them respectively for that purpose and shall indorse thereon the time of receiving the same in their respective offices and the same shall be kept there for the inspection of the public subject to the payment of the proper fees. C. O. 43, s. 13.

Clerk to enter instruments in a book

**14.** Every such clerk shall number each instrument or copy filed in his office and shall enter in alphabetical order in a book to be provided by him the ~~names of all the parties to~~ name of the mortgagor in each such instrument with the number indorsed thereon opposite to each name; ~~and such entry shall be repeated alphabetically under the name of every party thereto.~~ C. O. 43, s. 14.

### CONVEYANCES OF GROWING OR FUTURE CROPS.

Securities on crops

**15.** No mortgage, bill of sale, lien, charge, incumbrance, conveyance, transfer or assignment hereafter made, executed or created and which is intended to operate and have effect as a security shall in so far as the same assumes to bind, comprise, apply to or affect any growing crop or crop to be grown in future in whole or in part be valid except the same be made, executed or created as a security for the purchase price and interest thereon of seed grain.

Crop mortgages to secure price of seed grain

(2) Every mortgage or incumbrance upon growing crops or crops to be grown, made or created to secure the purchase price of seed grain shall be held to be within the provisions of this Ordinance and the affidavit of *bona fides* among the other necessary allegations shall contain a statement that the same is taken to secure the purchase price of seed grain.

Crop must be sown within one year from mortgage

(3) No mortgage or incumbrance to secure the price of seed grain shall be given upon any crop which is not sown within one year of the date of the execution of the said mortgage or incumbrance.

Separate register of seed grain mortgages

c.15.1908-9 (4) Every registration clerk shall keep a separate register of such seed grain mortgages and shall be entitled to receive the same fees for his services as provided for under section 33 of this Ordinance.

Seed grain mortgages preferential security

(5) Every such seed grain mortgage so taken and filed shall not be affected by or subject to any chattel mortgage or bill of sale previously given by the mortgagor or by any writ of execution against the mortgagor in the hands of the sheriff at the time of the registration of such seed grain mortgage but such seed grain mortgage shall be a first and preferential security for the sum therein mentioned; the date of the purchase of seed grain, the number of bushels and price per bushel must be stated in the mortgage as well as in the affidavit of *bona fides*. C. O. 43, s. 15.

Particulars to be given

### PROCEDURE UNDER MORTGAGE ON DEFAULT.

Cause for seizure by mortgagee

**16.** Unless it is otherwise specially provided therein goods and chattels assigned under a mortgage or conveyance intended to operate as a mortgage of goods and chattels shall be liable to be seized or taken possession of by the grantee for any of the following causes:

Default in payment or performance of agreements

1. If the grantor shall make default in payment of the sum or sums of money thereby secured at the time therein provided for payment or in the performance of any covenant or agreement contained in the mortgage or conveyance intended to operate as a mortgage and necessary for maintaining the security;

Removal of goods

2. If the grantor shall without the written permission of the grantee either remove or suffer the goods or any of them to be removed from the registration district within which they are situate;

Rent or taxes

3. If the grantor shall suffer the said goods or any of them to be distrained for rent, rates or taxes or shall suffer the said goods or any of them to be liable to seizure for rent by reason of default of the grantor in paying the same when due;

Execution

4. If execution shall have been levied against the goods of the grantor under any judgment at law;

Attempt to dispose of goods

5. If the grantor shall attempt to sell or dispose of or in any way part with the possession of the said goods. C. O. 43, s. 16.

### RENEWAL OF MORTGAGES.

C. 25, 1908

Mortgage filed to cease to be valid after two years unless renewed

**17.** Every mortgage or conveyance intended to operate as a mortgage filed in pursuance of this Ordinance shall cease to be valid as against the creditors of the persons making the same and against subsequent purchasers or mortgagees in good faith for valuable consideration after the expiration of two years from the filing thereof unless within thirty days next preceding the expiration of the said term of two years a statement exhibiting the interest of the mortgagee, his executors, administrators or assigns in the property claimed by virtue thereof and a full statement of the amount still due for principal and interest thereon and of all payments made on account thereof is filed in the office of the registration clerk of the district where the property is then situate with an affidavit of the mortgagee or of one of several mortgagees or of the assignee or one of several assignees or of the agent of the mortgagee or assignee or mortgagees or assignees duly authorised for that purpose, as the case may be, stating that such statements are true and that the said mortgage or conveyance has not been kept on foot for any fraudulent purpose, which statement and affidavit shall be deemed one instrument. C. O. 43, s. 17, and 1900 c. 12, s. 2.

Renewal of chattel mortgage

**18.** Such statement and affidavit shall be in the following form or to the like effect:

STATEMENT exhibiting the interest of *C.D.* in the property mentioned in the chattel mortgage dated the day of A.D. 1 , made between *A.B.* of of the one part and *C.D.* of of the other part and filed in the office of the registration clerk of the registration district of (*as the case may be*) on the day of 1 , and of the amount due for principal and interest thereon and of all payments made on account thereof.

The said *C.D.* is still the mortgagee of the said property and has not assigned the said mortgage (*or* the said *E.F.* is the assignee of the said mortgage by virtue of an assignment thereof from the said *C.D.* to him dated the day of 1 , *or as the case may be*).

No payments have been made on account of the said mortgage (*or* the following payments and no other have been made on account of the said mortgage:

1 .—Jan. 1—Cash received $ )

The amount still due for principal and interest on the said mortgage is the sum of dollars computed as follows:

(*Here give the computation.*)

*C.D.*

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Affidavit

NORTH-WEST TERRITORIES }
To Wit: }

I, of , the mortgagee named in the chattel mortgage mentioned in the foregoing or annexed) statement (*or* assignee of the mortgagee named in the chattel mortgage mentioned in the foregoing or annexed statement, *as the case may be*) make oath and say:

1. That the foregoing (*or* annexed statement) is true.

2. That the chattel mortgage mentioned in the said statement has not been kept on foot for any fraudulent purpose.

Sworn before me at }
in the North-West Territories, }
this day of 1 }

C. O. 43, s. 18.

Further statement yearly after first renewal

**19.** Another statement in accordance with the provisions of section 17 hereof duly verified as required by that section shall be filed in the office of the registration clerk of the district where the property is then situate within thirty days next preceding the expiration of the term of one year from the day of the filing of the statement required by the said section 17 and in default thereof such mortgage shall cease to be valid as against the creditors of the person making the same and as against purchasers and mortgagees in good faith for valuable consideration and so on from year to year; that is to say another statement as aforesaid duly verified shall be filed within thrity days next preceding the expiration of one year from the day of the filing of the former statement and in default thereof such mortgage shall cease to be valid as aforesaid. C. O. 43, s. 19.

Personal representative or assignee

Filing assignments

**20.** The affidavit required by section 17 of this Ordinance may be made by any next of kin, executor or administrator of any deceased mortgagee or by an assignee claiming by or through any mortgagee or any next of kin, executor or administrator of any such assignee; but if the affidavit is made by any assignee, next of kin, executor or administrator of any such assignee the assignment or the several assignments through which such assignee claims shall be filed in the office in which the mortgage is originally filed at or before the time of such refiling by such assignee, next of kin, executor or administrator of such assignee. C. O. 43, s. 20.

### AGENTS AUTHORITY TO TAKE CONVEYANCES.

Authority for taking instruments maybe general

**21.** An authority for the purpose of taking or renewing a mortgage or conveyance intended to operate as a mortgage or sale, assignment or transfer of goods and chattels under the provisions of this Ordinance may be a general one to take and renew all or any mortgages or conveyances to the mortgagee or bargainee; and provided such general authority is duly filed with the clerk it shall not be necessary to attach a copy thereof to any mortgage filed. C. O. 43, s. 21.

"Mortgagee" to include agent or manager of company

**22.** For the purpose of making the affidavit of *bona fides* required by sections 6, 8 and 9 of this Ordinance and the affidavit required by section 17 of this Ordinance the expressions "mortgagee," "bargainee," or "assignee" shall, in addition to their primary meaning, mean and include the agent or manager of any mortgagee, bargainee or assignee being an incorporated company. C. O. 43, s. 22.

### OMISSIONS AND ERRORS.

Rectification of omissions and errors

**23.** Subject to the rights of third persons accrued by reason of such omissions as are hereinafter defined any judge of the Supreme Court of the Territories or district Court on being satisfied that the omission to register a mortgage or other transfer of personal property or any authority to take or renew the same or any statement and affidavit of renewal thereof within the time prescribed by this Ordinance or the ommission or misstatement of the name, residence or occupation of any person was accidental or due to inadvertence or impossibility in fact, may in his discretion order such omission or misstatement to be rectified by the insertion in the register of the true name, residence or occupation or by extending the time for such registration on such terms and conditions if any as to security, notice by advertisement or otherwise or as to any other matter as he thinks fit to direct. C. O. 43, s. 23.

### ASSIGNMENT OF MORTGAGES.

**Filing assignments of mortgages**

**24.** In case any registered chattel mortgage has been assigned such assignment may upon proof by the affidavit of a subscribing witness be numbered and entered in the book mentioned in section 14 hereof in the same manner as a chattel mortgage and the proceedings authorised by sections 26 and 27 of this Ordinance may and shall be had upon a certificate of the assignee proved in manner aforesaid. C. O. 43, s. 24.

### DISCHARGE OF MORTGAGES.

**Discharge of mortgage**

**25.** Where any mortgage of goods and chattels is registered under the provisions of this Ordinance such mortgage may be discharged by the filing in the office in which the same is registered of a certificate signed by the mortgagee, his executors or administrators in form B in the schedule hereto or to the like effect . C. O. 43, s. 25.

**Entry and indorsement of discharge of mortgage**

**26.** The officer with whom such chattel mortgage is filed upon receiving such certificate duly proved by the affidavit of a subscribing witness shall at each place where the number of such mortgage has been entered with the name of any of the parties thereto in the book kept under section 14 of this Ordinance or wherever otherwise in the said book the said mortgage has been entered, write the words "Discharged by certificate number (*stating the number of certificate*) ;" and he shall also indorse the fact of such discharge upon the instrument discharged and shall affix his name to such indorsement. C. O. 43, s. 26.

**Certificate of discharge**

**27.** Any person filing a discharge of mortgage or a partial discharge of mortgage as aforesaid shall be entitled to ask for and receive from such clerk a certificate (other than the certificate which might be indorsed on a copy or duplicate of the mortgage as aforesaid) of such discharge or partial discharge in the form following or to the like effect:

Form of certificate

North-West Territories
Registration District of

This is to certify that an instrument purporting to be a discharge in full (*or* a partial discharge) of a certain chattel mortgage bearing date the day of and filed the day of following, made between *A.B.* of as mortgagor and *C.D.* of as mortgagee has been filed in the office of the clerk of the registration district of on the day of (*and in case of a partial discharge* that the goods or property mentioned in such partial discharge consist of *describing the chattel or property*)

*E.M., Clerk.*

C. O. 43, s. 27.

REMOVAL OF CHATTELS MORTGAGED.

Mortgaged goods not to be removed without notice

**28.** No goods or chattels under mortgage shall be removed into another registration district without a notice of the intention to remove be mailed post paid and registered to the mortgagee at his last known place of address not less than twenty days prior to such removal. C. O. 43, s. 28.

Removal of goods to another district

See Sec 3. c 25, 1908 for amending subsection re removal of goods into Saskatchewan

**29.** In the event of the permanent removal of goods and chattels mortgaged as aforesaid from the registration district in which they were at the time of the execution of the mortgage to another registration district before the payment and discharge of the mortgage a certified copy of such mortgage under the hand of the registration clerk in whose office it was first registered and of the affidavit and documents and instruments relating thereto filed in such office shall be filed with the registration clerk of the district to which such goods and chattels are removed within three weeks from such removal otherwise the said goods and chattels shall be liable to seizure and sale under execution and in such case the mortgage shall be null and void as against subsequent purchasers and mortgagees in good faith for valuable consideration as if never executed. C. O. 43, s. 29.

EVIDENCE. CERTIFIED COPIES.

Certified copies

**30.** Copies of any instrument filed under this Ordinance certified by the registration clerk shall be received as *prima facie* evidence for all purposes as if the original instrument was produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy and the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration and filing. C. O. 43, s. 30.

### AFFIDAVITS.

**31.** All affidavits and affirmations required by this Ordinance may be taken and administered by the registration clerk or any person whether in or out of the Territories authorised to administer oaths or take affidavits for use in the Supreme Court of the Territories and the sum of 25 cents shall be payable for every oath thus administered. C. O. 43, s. 31.

Officers for oaths

### EXPIRY ON HOLIDAY OF TIME FOR FILING.

**32.** Where under any provisions of this Ordinance the time for registering or filing any mortgage, bill of sale, instrument, document, affidavit or other paper expires on a Sunday or other day on which the office in which the registering or filing is to be made or done is closed and by reason thereof the filing or registering cannot be made or done on that day the registering or filing shall so far as regards the time of doing or making the same be held to be duly done or made if done or made on the day on which the office shall next be open. C. O. 43, s. 32.

Time for filing expiring on Sunday or holiday

### CLERK'S FEES.

**33.** For services under this Ordinance each clerk aforesaid shall be entitled to receive the following fees:

Clerks fees

1. For filing each instrument and affidavit, including the certificate on a duplicate, if any, and for entering the same in a book as aforesaid, 50 cents;

2. For filing assignment of each instrument and for making all proper indorsements in connection therewith, 50 cents;

3. For filing certificate of discharge of each instrument and for making all proper entries and indorsements connected therewith, 50 cents;

4. For searching for each paper, 25 cents;

5. For copies of any document filed under this Ordinance with certificate thereof, 10 cents for every hundred words;

6. For every certificate under section 27 of this Ordinance, 50 cents. C. O. 43, s. 33.

L. Governor in Council may alter fees.
Sec. 5 c. 25, 1908

34 - added s4 c 25, 1908 - ~~not~~ (act not applicable to Railway Co.).

# SCHEDULE.

## Form A.

(*Section* 7.)

### MORTGAGE OF CHATTELS.

This Indenture made the day of A.D. 1 between *A.B.*, of of the one part and *C.D.*, of of the other part.

Witnesseth that in consideration of the sum of $ now paid to *A.B.* by *C. D.* the receipt of which the said *A.B.* hereby acknowledges (*or whatever else the consideration may be*) he the said *A.B.* doth hereby assign to the said *C.D.* his executors, administrators and assigns all and singular the several chattels and things specially described as follows (*or* in the schedule hereto annexed) by way of security for the payment of the sum of $ and interest thereon at the rate of per cent. per annum (*or whatever else may be the rate*) and the said *A.B.* doth further agree and declare that he will duly pay to the said *C.D.* the principal sum aforesaid together with the interest then due on the day of A.D. (*or whatever else may be the stipulated time or times for payment*). And the said *A.B.* doth agree with the said *C.D.* that he will (*here insert terms as to insurance, payment of rent, collateral securities or otherwise which the parties may agree to for the maintenance or defeasance of the security*).

Provided always that the chattels hereby assigned shall not be liable to seizure or to be taken possession of by the said *C.D.* for any cause other than those specified in section 16 of *The Bills of Sale Ordinance* except as is otherwise specially provided herein.

In witness whereof the said *A.B.* has hereunto set his hand and seal.

Signed and sealed by the said *A.B.*
in the presence of me *E.F.*
(*Add name, address and occupation of witness.*) } *A. B.*

## FORM B.

(*Section* 25.)

### DISCHARGE OF CHATTEL MORTGAGE.

To the registration clerk of the registration district of

I, *A.B.*, of do certify that has

satisfied all money due on or to grow due on a certain chattel mortgage made by                to                which mortgage bears date the                day of                A.D. 1                and was registered (*or in case the mortgage has been renewed* was renewed) in the office of the registration clerk of the registration district of                on the                A.D. 1                as number                (*here mention the day and date of registration of each assignment thereof and the names of the parties or mention that such mortgage has not been assigned as the fact may be*) and that I am the person entitled by law to receive the money; and that such mortgage is therefore discharged.

Witness my hand this                day of                A.D. 1

Witness (*stating residence and occupation*) *E.F.*                *A.B.*

# BILLS OF SALE.

AMENDMENT.

## An Ordinance to amend Chapter 43 of the Consolidated Ordinances 1898, intituled "An Ordinance respecting Mortgages and Sales of Personal Property."

1900 c. 12

[*Assented to May 4, 1900.*] 4 May, 1900

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** and **2.** * * * * *

Mortgages when new districts formed

**3.** All chattel mortgages relating to property within any newly established districts shall (until their renewal becomes necessary to maintain their force against creditors, subsequent purchasers or mortgagees in good faith) continue to be as valid and effectual in all respects as they would have been if the new district had not been established; but in the event of a renewal of any such chattel mortgage after the establishment of such new district the renewal statement shall be filed in the office of the registration clerk of such new district together with a certified copy of the chattel mortgage to which such renewal statement relates and of any renewals thereof under the hand of the registration clerk in whose office the same were filed; and no chattel mortgage in force and filed at the date of the establishing of such new district shall lose its priority by reason of its not being filed in the office of the registration clerk of such new district prior to its renewal. 1900, c. 12, s. 3.

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## BIRDS.

*See* GAME.
USEFUL BIRDS.

## BIRTHS.

*See* VITAL STATISTICS.

## BOARDING HOUSE KEEPERS.

*See* KEEPERS OF HOTELS AND BOARDING HOUSES.

## BOARDING STABLES.

*See* LIVERY STABLES.

## BOILER INSPECTION.

*See* STEAM BOILERS.

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## BRANDS.

### An Ordinance respecting Brands.

1900, c. 22

4 May, 1900

[*Assented to May 4, 1900.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Brand Ordinance."* 1900, c. 22, s. 1.

INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

"Department"

1. The expression "department" means the department of agriculture;

"Commissioner"

2. The expression "commissioner" means the commissioner of agriculture;

3. The expression "horse" means any horse, mare, gelding, colt or filly, ass or mule; "Horse"

4. The expresson "cattle" means any bull, cow, ox, heifer, steer or calf; "Cattle"

5. The expression "stock" means any horse or head of cattle; "Stock"

6. The expression "owner" means the owner jointly or in severalty of any brand recorded under this Ordinance or the authorised agent of such owner; "Owner"

7. The expression "brand" means any letter, sign, character or numeral or combination of the same recorded as allotted to any owner; "Brand"

8. The expression "vent" means: "Vent"

(a) Any vent brand allotted as having been recorded prior to the first day of March, 1898;

(b) In the case of any three-character brand either the second marking thereof placed upon the same side of any stock as the original brand or a marking of a letter or numeral of such brand placed in a horizontal position below the brand;

(c) In all other cases the second marking of the brand placed upon the same side of any stock as the original brand;

any such vent denoting the fact of the proprietary rights in such stock having passed from the owner to some other person:

9. The expression "record" means the book kept by the recorder in pursuance of this Ordinance in which a description of every brand is recorded as such brand is allotted to any owner. "Record"

10. *The expression "character" means any sign, letter or numeral.* [illegible] "Character"

BRANDS THREE LETTER [illegible]

3. Subject to the provisions of [illegible] [illegible] body or any [illegible] 1900, c. 22, s. [illegible]

4. [illegible]

*three characters and the shape and pattern of such characters and the arrangement thereof shall be fixed and determined by the commissioner.* 1903, Sess. 1, c. 22, s. 2.

**Exclusive right to brand**

5. Upon the allotment of any brand to any owner or transferee under the provisions of this Ordinance and the entry in the record thereof such owner or transferee shall have the exclusive right to the use of such brand; and the presence of a recorded brand on any stock shall be *prima facie* evidence of the ownership of such animal by the owner of such brand. 1900, c. 22, s. 5.

### RECORD OF BRANDS.

**Recorder of brands**

6. The Lieutenant Governor in Council may appoint a recorder of brands who shall be subject to the direction of the commissioner and who shall keep a record of all brands allotted under this Ordinance. 1900, c. 22, s. 6.

7. Any person shall be entitled to have the record searched and to obtain certified extracts therefrom during the regular business hours of the department on payment of the fee prescribed in the tariff of fees appended hereto. 1900, c. 22, s. 7.

**Application for allotment of brand**

8. Any person requiring the allotment to him of a brand shall make application therefor to the recorder which application shall be accompanied by the fee prescribed in the tariff of fees appended hereto; and upon being satisfied that the application is in conformity with the provisions of this Ordinance the recorder shall allot a brand to such applicant and enter the same in the record:

Provided however that no brand shall be allotted to an Indian living on a reserve. 1900, c. 22, s. 8.

**Certificates of record of brand**

9. Upon the recording of any brand as aforesaid the person in whose name the same is recorded shall become the owner thereof; and the recorder shall deliver or transmit to the applicant to whom such brand is allotted a certificate of the allotment and entry in the record thereof; and the production of any certificate purporting to be a certificate signed by the recorder under the provisions of this section in any court shall be *prima facie* evidence of the ownership of such brand without any further proof of signature. 1900, c. 22, s. 9.

**Publication of recorded brands**

10. The commissoner may at such times and in such manner as to him may seem desirable cause to be published a

complete list of the brands recorded under this Ordinance and may make a reasonable charge for the volume containing the same. 1900, c. 22, s. 10.

### CHANGE IN RECORD.

**11.** The recorder may upon the application of any owner accompanied by the fee prescribed in the tariff of fees appended hereto make changes in the brand or position thereof not inconsistent with the provisions of this Ordinance. 1900, c. 22, s. 11. **Change in brand**

### NUMBER OF BRANDS.

**12.** No person shall have allotted to him more than two brands for horses and two brands for cattle. 1900, c. 22, s. 12. **Number of brands**

### CANCELLATIONS.

**13.** If any two or more owners of stock have the same or conflicting brands recorded the commissioner may if he deem it advisable authorise the cancellation of the brand last recorded or (with the sanction of the owner) of any brand previously recorded; and may allot another in lieu thereof without charge. 1900, c. 22, s. 13. **Commissioner may cancel conflicting brands**

**14.** In case it shall be proven to the satisfaction of the commissioner that any recorded brand has not been used by the owner thereof or by his authority for at least two years, notice of intended cancellation may be mailed to the last known address of such owner and at any time after three months from the mailing of such notice the commissioner may cause such brand to be cancelled. 1900, c. 22, s. 14. **or unused brands**

### TRANSFERS.

**15.** Any person wishing to transfer the ownership in any brand recorded under the provisions of this Ordinance shall make and sign in the presence of some person authorised to administer oaths for use in the supreme court of the Territories a memorndum in form A in the schedule hereto and shall transmit the same to the recorder with the fees chargeable on such transfer as prescribed in the tariff of fees appended hereto; and the recorder upon receipt of such memorandum and fees shall make an entry in the record opposite the entry of the original allotment setting forth the fact of such transfer of such brand to the transferee; and such transferee shall thereafter be deemed to be the owner and to have the exclusive right to the use of such brand. **Recording transfer of brands**

Where owner is dead or absent

(2) In case of the death or absence of the owner a declaration made by the transferee in form B in the schedule hereto may subject to the approval of the commissioner be accepted in lieu of the memorandum in form A:

Proviso

Provided that such transfer shall not be recorded until thirty days after notice thereof has been published in two successive weekly issues of a newspaper to be named by the commissioner. 1900, c. 22, s. 15.

Vent on transferred stock

**16.** Upon every transfer of any stock marked with the recorded brand of the transferror the transferror shall also mark his vent on the stock so transferred unless at the time of such transfer the said brand is transferred to the transferee of said stock:

Proviso

Provided, however, that any transferee taking possession of any stock for the purpose of slaughtering or shipping such stock out of the Territories may waive his right to claim that such stock shall be branded with a vent mark but in such case the transferror shall give to the transferee a statement in form C in the schedule hereto which shall be accepted as evidence of the transfer of such stock wherever such evidence may be required for the space of thirty days from the date of such statement. 1900, c. 22, s. 16.

### PENALTIES.

Penalty for contravention of Ordinance

**17.** Any person disobeying or contravening any of the provisions of this Ordinance (except such as are provided for in the next succeeding section) shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding $100. 1900, c. 22, s. 17.

### OFFENCES AND PENALTIES.

Offences and penalties

**18.** Any person who:

(*a*) Brands or directs, aids or assists to brand any stock with a brand which has not been recorded under the provisions of this Ordinance;

(*b*) Brands or causes, directs or permits to be branded with his own brand any stock of which he is not the owner without the authority of the owner;

(*c*) Blotches, defaces or otherwise renders illegible or alters any brand or mark upon stock or directs, causes or permits any such brand or mark to be blotched, defaced or otherwise rendered illegible or altered;

shall be guilty of an offence and on summary conviction thereof before a justice of the peace liable to a penalty not exceeding the sum of $200. 1900, c. 22, s. 18.

**19.** Chapter 76 of *The Consolidated Ordinances* is hereby repealed. 1900, c. 22, s. 19. Repeal

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## FORM A.

### MEMORANDUM OF TRANSFER OF BRANDS.

To the Recorder of Brands, Regina, Assa.

| | |
|---|---|
| DESCRIPTION OF BRAND | I, (*or* We) |
| | being the recorded owner of the brand mentioned in the margin hereof, having transferred the same to<br>of |
| (*Brand*) | do hereby request that you will make the necessary transfer to of such brand in your record and |
| Position | enclose herewith the sum of $1.00 as the authorised fee on such transfer. |
| Cattle or Horses | |

Dated at
this day of
1 (*Owner*)

Witness
*A* 1900, c. 22, form A.

---

## FORM B.

### IN THE MATTER OF AN APPLICATION FOR THE TRANSFER OF A BRAND.

I of do solemnly declare:

(1) That I am the purchaser of the brand recorded in the name of for the (*position on animal*) of (horses *or* cattle)

(2) That the said brand was actually sold to me by the said on or about the day of A.D. 19 and that I am entitled to a transfer for the same.

(3) That written transfer of the said brand was given me by the said

Where owner is dead or absent

(2) In case of the death or absence of the owner a declaration made by the transferee in form B in the schedule hereto may subject to the approval of the commissioner be accepted in lieu of the memorandum in form A:

Proviso

Provided that such transfer shall not be recorded until thirty days after notice thereof has been published in two successive weekly issues of a newspaper to be named by the commissioner. 1900, c. 22, s. 15.

Vent on transferred stock

**16.** Upon every transfer of any stock marked with the recorded brand of the transferror the transferror shall also mark his vent on the stock so transferred unless at the time of such transfer the said brand is transferred to the transferee of said stock:

Proviso

Provided, however, that any transferee taking possession of any stock for the purpose of slaughtering or shipping such stock out of the Territories may waive his right to claim that such stock shall be branded with a vent mark but in such case the transferror shall give to the transferee a statement in form C in the schedule hereto which shall be accepted as evidence of the transfer of such stock wherever such evidence may be required for the space of thirty days from the date of such statement. 1900, c. 22, s. 16.

### PENALTIES.

Penalty for contravention of Ordinance

**17.** Any person disobeying or contravening any of the provisions of this Ordinance (except such as are provided for in the next succeeding section) shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding $100. 1900, c. 22, s. 17.

### OFFENCES AND PENALTIES.

Offences and penalties

**18.** Any person who:

(*a*) Brands or directs, aids or assists to brand any stock with a brand which has not been recorded under the provisions of this Ordinance;

(*b*) Brands or causes, directs or permits to be branded with his own brand any stock of which he is not the owner without the authority of the owner;

(*c*) Blotches, defaces or otherwise renders illegible or alters any brand or mark upon stock or directs, causes or permits any such brand or mark to be blotched, defaced or otherwise rendered illegible or altered;

shall be guilty of an offence and on summary conviction thereof before a justice of the peace liable to a penalty not exceeding the sum of $200. 1900, c. 22, s. 18.

Repeal

**19.** Chapter 76 of *The Consolidated Ordinances* is hereby repealed. 1900, c. 22, s. 19.

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## FORM A.

### MEMORANDUM OF TRANSFER OF BRANDS.

To the Recorder of Brands, Regina, Assa.

DESCRIPTION OF BRAND

*(Brand)*

Position

Cattle or Horses

I, (*or* We) being the recorded owner of the brand mentioned in the margin hereof, having transferred the same to of do hereby request that you will make the necessary transfer to of such brand in your record and enclose herewith the sum of $1.00 as the authorised fee on such transfer.

Dated at
this day of
1
(*Owner*)

Witness
*A*

1900, c. 22, form A.

---

## FORM B.

### IN THE MATTER OF AN APPLICATION FOR THE TRANSFER OF A BRAND.

I, of do solemnly declare:

(1) That I am the purchaser of the brand recorded in the name of for the (*position on animal*) of (horses *or* cattle)

(2) That the said brand was actually sold to me by the said on or about the day of A.D. 19 and that I am entitled to a transfer for the same.

(3) That written transfer of the said brand was given me by the said

(4) That I am to the best of my knowledge and belief the rightful owner of all (horses *or* cattle) running at large in this district, branded with the said brand.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me
at
in the North-West
Territories, this
day of
A.D. 19

(*Signature of transferee*)

*A in and for the North-West Territories.*

1900, c. 22, form B.

## FORM C.

To all whom the same may in any wise concern:

Take notice that I have this day sold (*numbers and description of animals sold*) to (*name of person*).

*Signature.*

Dated at
this day
of 1

1900, c. 22, form C.

### TARIFF OF FEES.

| | |
|---|---|
| On application for allotment of a brand............ | $1 00 |
| On application for change in the record of a brand.... | 1 00 |
| On every transfer of a recorded brand.............. | 1 00 |
| For every search of the brand record............... | 25 |
| For every certified abstract from the brand record ... | 25 |

1900, c. 22.

## BULLS.

*See* ENTIRE ANIMALS.

## BUTTER AND CHEESE.

*See* DAIRY ASSOCIATIONS.

# CEMETERIES.

## An Ordinance respecting Cemeteries.

C.O. 1898 c. 68
15 March 1899

THE Lieutenant Governor by and wth the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Cemetery Ordinance."* C. O. 68, s. 1.

### INCORPORATION OF COMPANIES.

Continuation of companies

**2.** All companies formed under the provisions of chapter 24 of *The Revised Ordinances 1888,* intituled: *An Ordinance to incorporate Companies for the Establishment of Cemeteries,* or of any amendment thereto, in existence as such are hereby continued as bodies politic and corporate and they shall be subject to the provisions of this Ordinance. C. O. 68, s. 2.

Conditions of incorporation

**3.** Any number of persons not less than ten may form themselves into a company for the purpose of establishing one or more public cemeteries outside the limits of any town or village or within such limits if permission be given by bylaw of such town or village for such establishment within its limits, who have:

(*a*) Subscribed stock to an amount adequate to the purchase of the ground required for such cemetery; and

(*b*) Executed an instrument according to the form in the fifth section of this Ordinance contained; and

(*c*) Paid to the treasurer of the proposed company twenty-five per cent. of the capital stock intended to be raised; and

(*d*) Deposited such instrument or a duplicate thereof together with a receipt from the treasurer for the first instalment of twenty-five per cent. in the office of the Territorial secretary. C. O. 68, s. 3.

Territorial secretary to receive notice of proposed formation of company

**4.** Notice of the formation of the proposed company shall be forthwith given by the Territorial secretary in the official gazette setting forth the name of the said company and the persons constituting the same and from and after the date of the publication of such notice the persons therein named and their successors shall be a body corporate and politic under the name mentioned therein and as such body corporate and politic shall have all rights and be subject to all the liabilities of a corporation and shall have full power to acquire, hold and alienate both real and personal estate for all the purposes of the company. C. O. 68, s. 4.

**Powers**

**Form of instrument**

**5.** The instrument referred to in section 3 of this Ordinance may be in the form following:

"Be it remembered that on this day of in the year of Our Lord one thousand we the undersigned shareholders met at in the North-West Territories and resolved to form ourselves into a cemetery company to be called The Cemetery Company under the provisions of *The Cemetery Ordinance*; and we do hereby agree that the capital stock of the said company shall be dollars to be divided into shares of dollars each entitling the holder to one hundred superficial feet; and we the undersigned shareholders do hereby agree to accept and take the number of shares set by us opposite our respective signatures; and we do hereby agree to pay the calls thereon according to the provisions of the said Ordinance and the rules and regulations and bylaws of the company to be made in that behalf.

| NAME. | NO. OF SHARES. | AMOUNT. |
|---|---|---|
| | | |

C. O. 68, s. 5.

## TRUSTEES OF RELIGIOUS BODIES.

**Continuation of trustees**

**6.** Trustees appointed under the provisions of Ordinance No. 5 of 1892 intituled: *An Ordinance respecting the Holding of Cemeteries in Trust for Religious Bodies* and in existence at the time of the coming into force hereof are hereby continued and shall be subject to the provisions of this Ordinance affecting trustees appointed hereunder. C. O. 68, s. 6.

**7.** When any one or more religious societies or congregations in the Territories desire to take a conveyance or transfer of land for the purpose of establishing a cemetery for the use of such society or congregation or for the use in common of such societies or congregations such society or congregation or societies or congregations, as the case may be, may appoint trustees to whom and their successors to be appointed in such manner and subject to such regulations as may be specified in the deed of conveyance or transfer, the land requisite for the purpose aforesaid may be conveyed and such trustees and their successors in perpetual succession by the name expressed in the deed may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein: Organisation of board of trustees

Provided that such land shall not be within the limits of a town unless permission be given by bylaw of the said town for such establishment within the limits. C. O. 68, s. 7. Land to be outside town

**8.** If the deed of conveyance or transfer of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the society or congregation or societies or congregations for whose use such land is held may enter into an agreement with each other in writing in such manner as may seem to them best and such agreement shall specify the manner in which the successors of the trustees for the term then being are to be appointed and such agreement indorsed on or annexed to a certified copy of the transfer or deed of conveyance under which the land is held for the use of the said society or congregation or societies or congregations and signed by the accredited agents of such society or congregation or societies or congregations shall govern and regulate the manner in which the successors of the trustees named in the original grant, conveyance or transfer shall be appointed and the regulations to which they shall be subject. C. O. 68, s. 8. Appointment of successors to trustees

**9.** Such trustees shall within twelve months after the execution of the deed of conveyance or transfer cause the deed or transfer to be registered in the land titles office of the land registration district within which the land is situated otherwise the said deed shall be void. C. O. 68, s. 9. Transfer of land to be registered

**10.** The trustees and their successors shall thenceforth hold and convey the land for the purpose exclusively of a cemetery or place for the burial of the dead. C. O. 68, s. 10. Purposes of land

## PROVISIONS AFFECTING COMPANIES.

Interest on paid up stock

**11.** From and out of the proceeds of the sales of burial sites made by the company the company may pay to its shareholders who may not desire to take land in the cemetery to the full extent of the stock subscribed and paid for by them interest on their paid up stock not represented by land in the cemetery at such rate as may be agreed on not exceeding eight per centum per annum and may also repay to such shareholders the amount of paid up stock held by them not represented by land in the cemetery.

Rights of shareholders

(2) Every such shareholder of the said company shall be taken to be a shareholder and shall be entitled to all the rights of shareholders in respect of the shares of the capital stock of the company held by him and fully paid up and which are not represented by land in the cemetery until such shares are repaid to him by the company; and upon the repayment to him of any share he shall cease to be a shareholder in respect of such share.

When no dividend payable

(3) Except as aforesaid no dividend or profit of any kind shall be paid by the company to any member thereof. C. O. 68, s. 11.

Application of proceeds of sale

**12.** Subject to the provisions in the preceding section contained one half of the proceeds of all sales of burial sites made by the company shall be first applied to the payment of the purchase money of the land acquired by the company and the residue to preserving, improving and embellishing the land as a cemetery and to the incidental expenses of the company; and after payment of the purchase money the proceeds of all future sales shall be applied to the preservation, improvement and embellishment of the cemetery and to the incidental expenses thereof and to no other purpose whatever. C. O. 68, s. 12.

Owner of lot a shareholder

**13.** Every proprietor of a lot in the cemetery containing not less than one hundred superficial feet and who has paid twenty-five per cent. or more of the price of the lot shall be deemed a shareholder in the company and every such lot shall be deemed a share in the company. C. O. 68, s. 13.

Qualification of directors

**14.** Every shareholder who has paid to the company not less than $5 in all on his share or shares shall be eligible as a director. C. O. 68, s. 14.

Size of lots Rights of owners

**15.** The company may sell a lot of any size; but no proprietor of a lot containing less than one hundred superficial feet shall thereby become a member of the company or have any vote in the management of the affairs thereof. C. O. 68, s. 15.

**16.** The affairs and property of the company shall be managed by three directors, a majority of whom shall form a quorum. C. O. 68, s. 16. **Board of directors**

**17.** The first directors shall be chosen by ballot from among the subscribers to the instrument creating the company; and thereafter the directors shall be annually elected by the shareholders on the first Monday in June in every year. C. O. 68, s. 17. **Choice of directors**

**18.** Upon every election of directors, including the first, every shareholder shall be entitled to one vote for every share he holds or is possessed of up to ten and one vote for every five shares above ten; but no shareholder shall vote unless he has paid at least $2 upon each share upon which he votes. C. O. 68, s. 18. **Qualification of shareholders to vote**

**19.** The directors or a majority of them shall at their first meeting elect one of their number to be president of the company and the president if present or if he is not present then some director chosen for the occasion shall preside at every meeting of the directors and shall not vote except in case of an equality of votes when he shall have a casting vote. C. O. 68, s. 19. **President**

**20.** The directors may also call for instalments on the sums subscribed for and may appoint a time for the payment thereof and if the same are not then paid the right of the subscriber and every instalment formerly paid shall be forfeited and he shall be held not to have subscribed unless the directors think it expedient to remit the forfeiture which they may do if the instalments are paid with interest within one year after the day when they ought to have been paid. C. O. 68, s. 20. **Calls on stock** **Forfeiture for nonpayment**

**21.** The directors shall record in a book kept for the purpose all their bylaws and proceedings and every shareholder shall have access to such book for the purpose of searching and making extracts therefrom without payment of any fee. C. O. 68, s. 21. **Records**

**22.** The directors may reserve for the exclusive use of any religious society or congregation such part of the cemetery and upon such terms and conditions as may be agreed upon. C. O. 68, s. 22. **Exclusive reservation**

Graves for strangers and poor

**23.** The company shall furnish graves for strangers and for the poor of all denominations free of charge on the certificate in the latter case of a minister or clergyman of the denomination to which the deceased belonged that the relatives of the deceased are poor and cannot afford to purchase a lot in the cemetery. C. O. 68, s. 23.

### GENERAL PROVISIONS.

Walls and fences

**24.** The company shall within two years from its incorporation and the trustees shall within two years from their appointment by walls or other fences inclose every part of the cemetery held by them. C. O. 68, s. 24.

Repair of property

**25.** The company or trustees as the case may be shall keep the cemetery and the buildings and fences thereof in complete repair and in good order and condition. C. O. 68, s. 25.

Drains and sewers

**26.** The company or trustees as the case may be shall make all proper and necessary sewers and drains in and about the cemetery for draining it and keeping it dry; and they may from time to time as occasion requires cause any such sewer or drain to open into an existing sewer with the consent in writing of the persons having the management of the street or road and with the like consent of the owner or occupier of the land through which or part of which the opening is intended to be made doing as little damage as possible to the street, road or land wherein the same is made and restoring it to the same or as good condition as it was in before being disturbed. C. O. 68, s. 26.

Penalty for fouling water

**27.** If the company or trustees as the case may be at any time cause or suffer to be brought to or to flow in any river, spring, well, stream, canal, reservoir, aqueduct, pond or watering place any offensive matter from the cemetery whereby the water is fouled the company or trustees as the case may be shall forfeit for every such offence $500. C. O. 68, s. 27.

Suit for penalty

Limitation of action

**28.** The said penalty with full costs of suit may by a civil action in any court of competent jurisdiction be recovered by any person having a right to use the water; but the penalty and costs shall not be recoverable unless sued for during the continuance of the offence or within six months after it has ceased. C. O. 68, s. 28.

Further penalty

**29.** In addition to the penalty of $500 (and whether the same has been recovered or not) any person having a right to use the water may sue the company or trustees as the case may be in a civil action for any damage specially sustained by him by reason of the water being fouled or if no special damage is alleged then for the sum of $10 for every day during which the offensive matter has continued to be brought or to flow after the expiration of twenty-four hours from the time when the notice of the offence was by such person served upon the company or trustees as the case may be. C. O. 68, s. 29.

**30.** No body shall be buried in a vault or other space under any chapel or other building in the cemetery nor within fifteen feet of the outer wall of any such chapel or building. C. O. 68, s. 30. No grave near buildings

**31.** The company or trustees as the case may be shall make regulations to ensure all burials within the cemetery being conducted in a decent and solemn manner. C. O. 68, s. 31. Proper conduct of funerals

**32.** The real estate of the company or trustees and the lots or plots when conveyed by the company or trustees to individual proprietors for burial sites shall be exempt from taxation of any kind and shall not be liable to be seized or sold under execution. C. O. 68, s. 32. Exemption from taxes

**33.** The directors of the company may pass bylaws and the trustees may frame regulations for the laying out, selling and management of the cemetery and for regulating the erection of tombs, monuments and gravestones therein; and the directors of the company may pass bylaws empowering the president to execute conveyances of plots to shareholders. C. O. 68, s. 33. Bylaws

**34.** The directors shall keep a record of the bylaws and the trustees shall keep a record of the regulations referred to in the next preceding section and the directors and trustees respectively shall also keep a separate record of all burials showing name, age, occupation and date of burial of all persons buried within the cemetery and in case they cannot get all the particulars a note of such must be made in the margin and every person shall have access to such last mentioned record for the purpose of searching and making extracts therefrom without payment of any fee. C. O. 68, s. 34. Record of regulations and burials

**35.** Any person who in a cemetery established under this Ordinance: Penalties

(*a*) Plays any game or sport; or

(*b*) Discharges fire arms (save at a military funeral); or who

(*c*) Commits a nuisance therein;

shall on summary conviction thereof be liable to a fine not exceeding $100 and costs of prosecution. C. O. 68, s. 35.

Liability of trustees

**36.** The trustees shall be personally liable for any judgment recovered against them as trustees. C. O. 68, s. 36.

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## CHATTEL MORTGAGES.

*See* BILLS OF SALE.

## CHEESE.

*See* DAIRY ASSOCIATIONS.

## CHANGING NAMES OF COMPANIES.

*See* COMPANIES.

## CHEMISTS AND DRUGGISTS.

*See* PHARMACEUTICAL ASSOCIATIONS.

## CHILDREN.

*See* ILLEGITIMATE.
INFANTS.
INSURANCE.
SUPPORT OF ILLEGITIMATE CHILDREN.

## CHIMNEYS.

*See* CONSTRUCTION OF CHIMNEYS.

## CHURCH LANDS.

*See* REAL PROPERTY.

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## CHOSES IN ACTION.

C.O. 1898, c. 41
15 March, 1899

### An Ordinance respecting Choses in Action.

THE Lieutennt Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Assignment of debts and *choses in action*

**1.** Every debt and any *chose in action* arising out of contract shall be assignable at law by any form of writing which shall contain apt words in that behalf but subject to such conditions and restrictions in respect to the right of transfer as may appertain to the original debt or as may be connected with or be contained in the original contract and the assignee thereof may bring an action thereon in his own name as the party might to whom the debt was originally owing or to whom the right of action originally arose or he may proceed in respect of the same as though this Ordinance had not been passed. C. O. 41, s. 1. (a)

"Assignee"

**2.** The term "assignee" in the next preceding section shall include any person now being or hereafter becoming entitled to any first or subsequent assignment or transfer or any derivative title to a debt or *chose in action* and possessing at the time of the suit or action being instituted the whole and entire beneficial interest therein and the right to receive the subject or proceeds thereof and to give effectual discharge therefor. C. O. 41, s. 2.

Action for debt on assignment

**3.** The plaintiff in any action or suit for the recovery of the subject of any assignment made in conformity with the two next preceding sections shall in his statement of claim set forth briefly the chain of assignments showing how he claims title but in all other respects the proceedings may be the same as if the action were brought in the name of the original creditor or of the person to whom the cause of action accrued. C. O. 41, s. 3.

Equities of debtor against assignor before notice

**4.** In case of any assignment of a debt or *chose in action* arising out of contract and not assignable by delivery such assignment shall be subject to any defence or set-off in respect of the whole or any part of such debt or *chose in action* arising out of contract existing at the time of the notice of assignment to the debtor or person sought to be made liable in the same manner and to the same extent as such defence or set-off would be effectual in case there had been no assignment thereof and such defence or set-off shall apply as between the debtor and any assignee of such debt or *chose in action* arising out of contract. C. O. 41, s. 4.

Assignee's rights after notice to debtor

**5.** In case of any assignment made in conformity with the provisions hereof and notice thereof given to the debtor or person liable in respect of the subject of such assignment the assignee shall have, hold and enjoy the same free of any claims, defences or equities which may have arisen subsequent to such notice by any act of the assignor or otherwise. C. O. 41, s. 5.

Securities transferable by delivery

**6.** The bonds or debentures of corporations made payable to bearer or any person named therein or bearer may be transferred by delivery alone and such transfer shall vest the property in such bonds or debentures in the transferee or in the holder thereof and any such holder may bring any action or suit on or in respect of any such bonds or debentures in his own name. C. O. 41, s. 6.

Negotiable instruments

**7.** The provisions of the preceding sections shall not be construed to apply to bills of exchange or promissory notes or instruments which are negotiable or in respect of which the property therein passes by mere delivery. C. O. 41, s. 7.

# CIVIL JUSTICE.

*See* JUDICATURE.

# CIVIL SERVICE.

*See* PUBLIC SERVICE.
DEPARTMENTS.

# CLERKS OF COURT AND DEPUTIES.

C.O. 1898, c. 22
15 March, 1899

## An Ordinance respecting Clerks and Deputy Clerks.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### DEPUTY CLERKS.

Clerks of court to appoint deputies

**1.** The clerks of the Supreme Court of the North-West Territories for the judicial districts of Northern Alberta, Southern Alberta, Saskatchewan, Western Assiniboia and Eastern Assiniboia shall respectively appoint a deputy at Edmonton, Medicine Hat, Battleford, Moose Jaw and Yorkton and such deputy clerk shall have and perform the powers, duties and obligations hereinafter mentioned.

(2) *In the event of any deputy clerk's district being hereafter established the clerk of the Supreme Court of the judicial district within which such deputy clerk's district is established shall appoint a deputy whose office shall be at such place as the Lieutenant Governor in Council shall designate; and such deputy clerk when so appointed shall have and perform the powers, duties and obligations hereinafter mentioned.* C. O. 22, and 1900, c. 6, s. 1.

### DEPUTY CLERKS' DISTRICTS.

**2.** For the purposes hereinafter mentioned the respective districts of the said deputy clerks shall be as follows: Districts of deputies

The district of the deputy clerk at Edmonton shall consist of all the district of Alberta lying north of townships 42; Edmonton

The district of the deputy clerk at Medicine Hat shall consist of all that portion of the provisional district of Assiniboia lying west of the line between ranges 23 and 24 west of the third meridian; Medicine Hat

The district of the deputy clerk at Battleford shall consist of that portion of the provisional district of Saskatchewan lying west of the line between ranges 11 and 12 west of the third meridian; Battleford

The district of the deputy clerk at Moose Jaw shall consist of all that portion of the judicial district of Western Assiniboia lying west of the line between ranges 23 and 24 west of the second meridian and east of the west line of the twenty-third range of townships west of the third meridian; Moose Jaw

The district of the deputy clerk at Yorkton shall consist of all that portion of the judicial district of Eastern Assiniboia lying north of a line which may be described as follows: Commencing at the point where the line between townships 20 and 21 in the Dominion lands system of survey intersects the western boundary of the province of Manitoba; thence westerly following the said line between townships 20 and 21 to its intersection with the line between ranges 7 and 8 west of thé second initial meridian; thence northerly along the line between the said ranges 7 and 8 to its intersection with the line between townships 22 and 23; thence westerly along the line between the said townships 22 and 23 to its intersection with the line between ranges 10 and 11 west of the second initial meridian in the Dominion lands system of survey. Yorkton

(2) *The Lieutenant Governor in Council shall have power to alter the boundaries of any deputy clerk's district now or hereafter established by adding thereto or taking therefrom and to establish new districts.* C. O. 22, s. 2, and c. 6 of 1900, s. 2. Lieutenant Governor may make new districts

### DEPUTY CLERKS' POWERS AND DUTIES.

**3.** All actions and other proceedings commenced in the office of any one of the said deputy clerks shall be carried on in the same office and in respect thereof such deputy clerk shall in all respects have and perform all the powers, duties and obliga- Where action may be commenced Powers and duties of deputy Seal and books tions of the clerk of the court for his judicial district; and such deputy clerks respectively shall have and use a duplicate of the seal of the court used by the clerks of their respective judicial districts and keep such books as are kept by the clerks.

(2) And in respect of the following matters:

Probate

(*a*) Applications for letters probate or letters of administration where the deceased died within a deputy clerk's district or where the whole of the estate in respect whereof letters probate or letters of administration are applied for lies within a deputy clerk's district;

Guardianship of persons

(*b*) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district;

Guardianship of estates

(*c*) Applications for the appointment of a guardian of the estate of an infant or a lunatic where the infant or the lunatic resides within the deputy clerk's district; or where the whole of the estate to be affected lies within a deputy clerk's district;

Proceedings commencing without writ

(*d*) Proceedings commenced by originating summons and proceedings originating by petition, notice of motion or judge's summons where the advocate for the application resides in a deputy clerk's district;

such deputy clerk shall and in applications of the character of those marked (*a*) and (*c*) where a part only of the property to be affected lies within a deputy clerk's district such deputy clerk may have and perform all the powers, duties and obligations of the clerk of his judicial district. C. O. 22, s. 3. (a)

Examination for discovery

**4.** In any action, suit or other proceeding wherever commenced in case it is desired to examine a person for discovery and such person resides within the district of one of the said deputy clerks such deputy clerk shall for the purpose of such examination have and perform all the powers, duties and obligations of the clerk of his judicial district. C. O. 22, s. 4.

Appeals from convictions

**5.** In respect of appeals from convictions or orders made by a justice of the peace under the authority of any Ordinance relating to matters within the legislative authority of the Legislative Assembly of the Territories or under the authority of a municipal bylaw where the conviction or order is made within the district of any one of the said deputy clerks the office of such deputy clerk shall be the office of the court in which all proceedings relating to such appeal shall be carried on and in respect thereof such deputy clerk shall have and perform all the powers, duties and obligations of the clerk of his judicial district. C. O. 22, s. 5.

Pending business

**6.** The provisions of this Ordinance shall not apply to any business pending at the time of the passing hereof and such business shall be completed in the office of the clerk or deputy clerk in which the same is pending. C. O. 22, s. 6.

### PROCESS ISSUERS.

Process issuers

**7.** In any section of the Territories where the convenience of the public may be the better served the clerk with the approval of the judge may also appoint a process issuer who being supplied with blank forms original and *mesne* processes signed by the clerk may issue the same under his direction from time to time, such process issuer countersigning each one so issued and making returns of all processes so issued to the clerk as required by the clerk or as directed by the judge and in such cases the clerk and his sureties shall be responsible for all the acts and omissions of such issuer.

Authority to appoint process issuers

(2) *In this section the expression "clerk" shall, as to the districts described in section 2 hereof mean the deputy clerk for such districts respectively.* C. O. 22, s. 7, and 1899 c. 6, s. 1.

### SECURITIES AND OATHS OF OFFICE OF CLERKS.

Clerk to file copy of security of office

**8.** Every clerk before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial secretary a copy certified as such by the Secretary of State for Canada of the security required by and given under *The North-West Territories Act* or of such substituted security. C. O. 22, s. 8.

Security may be sued upon

**9.** Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such clerk. C. O. 22, s. 9.

Certified copy evidence

**10.** A copy of such security purporting to be such certified by the Territorial secretary shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. C. O. 22, s. 10.

Deputy clerk to give security

**11.** Every deputy clerk before entering upon the duties of his office shall give security to the Lieutenant Governor to the satisfaction of the Lieutenant Governor in Council in the sum of one thousand dollars for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of nonperformance or improper or undue performance of any such duties or obligations or by reason of the nonpayment over of any such moneys shall have and possess a right of action against such deputy clerk and his sureties upon such security for the amount of such damages. C. O. 22, s. 11.

Right of action on security

Clerks not responsible for deputies

**12.** The clerks respectively for the said judicial districts of Northern Alberta, Southern Alberta, Saskatchewan, Western Assiniboia and Eastern Assiniboia shall not after the giving of such security by their said respective deputies be answerable or accountable for the acts or nonperformance or improper performance of the duties and obligations of their respective deputies. C. O. 22, s. 12.

Clerk and deputy to take oath of office

**13.** Every clerk and every deputy clerk appointed under the provisions of any Ordinance of the Territories in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance.

(2) All such oaths shall be filed in the office of the clerk of the Executive Council immediately after being taken. C. O. 22, s. 13.

### VACANCY.

Disposition of books etc., when vacancy occurs

**14.** Whenever a vacancy occurs in the office of clerk and until the same be filled by the proper authority the books, records, moneys and other matters and things the property of the Government of the Territories shall be handed over by the person in whose possession or control they may be *to the person lawfully performing the duties of the clerk.*

Forcible recovery of office books, etc.

(2) Without prejudice to any other powers of the court or judge by way of attachment, committal or otherwise, the judge may on summary application make an order directing the sheriff or other person named by him to take and seize such books, records, moneys and other things wheresoever found and for such purpose may authorise such sheriff or other person to break and open any doors and windows, buildings or inclosures and such order shall be full justification to such sheriff or other person for any action taken in pursuance thereof. C. O. 22, s. 14, and 1900 c. 6, s. 3.

### PROHIBITION FROM PRACTICE AS ADVOCATE.

**15.** No clerk or deputy clerk while holding office shall practise as an advocate of the Territories or be a member of any firm of advocates practising in the Territories. C. O. 22, s. 15. Clerk or deputy not to act as advocate

### BOOKS AND FORMS.

**16.** All necessary books and forms required for use in the clerk's or deputy clerk's offices shall be provided by and be the property of the North-West Government. C. O. 22, s. 16. Books and forms

### FEES TO CLERKS AND DEPUTIES. ANNUAL RETURNS TO TERRITORIAL TREASURER.

**17.** For the purposes of the following sections: Interpretation

1. The word "clerk" shall mean and include the clerk of the Supreme Court of the North-West Territories for each of the judicial districts and their respective deputies appointed under the provisions of this Ordinance ; "Clerk"

2. The word "fees" shall mean and include all fees and allowances payable to clerks under the provisions of *The Judicature Ordinance* or rules of court and all fees payable to such clerks as registration clerks under the provisions of *The Bills of Sale Ordinance, An Ordinance respecting Hire Receipts and Conditional Sales of Goods* and *An Ordinance respecting Partnerships* and any amendments to the said Ordinances or any other Ordinance of the Territories. C. O. 22, s. 17. "Fees"

**18.** All fees upon interlocutory motions, summonses and orders made or granted in chambers shall be paid to the clerk of the judicial district or division of the judicial district in which the proceedings are taken. C. O. 22, s. 18. Fees to be paid clerk

**19.** Every clerk shall keep a chamber book in which such proceedings shall be entered. C. O. 22, s. 19. Chamber book

**20.** Every clerk shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him under and by virtue of the said Ordinances and amendments showing therein separately the fees received by him for each service performed under any of the said Ordinances and amendments and such further facts and information as the Lieutenant Governor may from time to time require. C. O. 22, s. 20. Fees received to be recorded

Annual statement of fees received

**21.** Every clerk shall on or before the fifteenth day of January in each year make up a statement in duplicate from such book and return the same to the Territorial treasurer verified under oath; such statement shall set forth the total amount of fees which have been received by such clerk during the twelve months ended on the thirty-first day of December next preceding. C. O. 22, s. 21.

Fee book open for inspection

**22.** Each clerk shall produce such book at any time during his lawful office hours for inspection by any person appointed by the Lieutenant Governor for that purpose. C. O. 22, s. 22.

Fees obtainable by clerk

**23.** Every clerk shall be entitled to retain to his own use in each year all the fees received by him in that year up to $1,500.

(2) Of the further fees and emoluments received by each clerk in each year in excess of $1,500 and not exceeding $2,000 he shall be entitled to retain to his own use seventy per cent. and no more.

(3) Of the further fees and emoluments received by each clerk in each year in excess of $2,000 not exceeding $2,500 he shall be entitled to retain to his own use sixty per cent. and no more.

(4) Of the further fees and emoluments received by each clerk in each year in excess of $2,500 and not exceeding $3,000 he shall be entitled to retain to his own use fifty per cent. and no more.

(5) Of the further fees and emoluments received by each clerk in each year in excess of $3,000 and not exceeding $3,500 he shall be entitled to retain to his own use forty per cent. and no more.

(6) Of the further fees and emoluments received by each clerk in each year in excess of $3,500 he shall be entitled to retain to his own use thirty per cent. and no more.

Remuneration of clerk by salary

(7) *Notwithstanding anything in this section contained the Lieutenant Governor in Council may order that all fees received by any clerk shall be paid to the Territorial treasurer by such clerk within the first five days of the month following the month in which such fees are received; and as compensation in lieu of fees such clerk and his deputy in office (if there be one) shall be paid such annual salary as the Lieutenant Governor in Council determines; and such payment to the Territorial treasurer shall be accompanied by a statement in*

*such form as the attorney general may prescribe verified under oath showing the amount of the fees received.* C. O. 22, s. 23, and 1901, c. 14, s. 1.

Proportion of fees to be paid Territorial treasurer

**24.** With the statement in section 21 of this Ordinance mentioned each clerk shall transmit to the Territorial treasurer such proportion of the fees received by him during the preceding year as under this Ordinance he is not entitled to retain to his own use. C. O. 22, s. 24.

Penalty for neglect to keep books

**25.** Any clerk who fails to keep the books required to be kept by him under the provisions hereof or who fails to enter therein any fee or fees received by him and required by the provisions hereof to be entered therein shall for each such offence be liable on summary conviction to a penalty not exceeding $20. C. O. 22, s. 25.

Penalty for non-transmission of annual statement

**26.** Any clerk who shall fail to transmit to the Territorial treasurer on or before the fifteenth day of January in any year the statement mentioned in section 21 hereof verified as therein provided shall on summary conviction be liable to a penalty of $20 for each day after that date he shall fail to transmit the same so verified. C. O. 22, s. 26.

Failure to transmit fees

**27.** Any clerk who fails to transmit to the Territorial treasurer with the statement in section 21 of this Ordinance mentioned the proportion of fees required to be so transmitted by him under the provisions of section 24 hereof shall for every such offence be liable on summary conviction to a penalty of $20 for each day after the fifteenth day of January that he shall fail to transmit the same. C. O. 22, s. 27.

Penalty

Money to go to general revenue fund

**28.** The fees and moneys received by the Territorial treasurer under the provisions hereof shall form part of the general revenue fund of the Territories. C. O. 22, s. 28.

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## SCHEDULE.

### CLERK'S OATH OF OFFICE.

I, do swear that I will truly and faithfully perform the several duties of clerk of the Supreme Court of the North-West Territories

Judicial District of to which I have been appointed without fear, favour or malice. So help me God.

Sworn before me at
in the North-West Territories,
this day of 1 .

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# COAL MINES.

C.O. 1898, c. 16
15 March, 1899

## An Ordinance to make Regulations with respect to Coal Mines.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Coal Mines Regulations Ordinance."* C. O. 16, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Mine"

1. The expression "mine" includes every shaft in the course of being sunk and every level and inclined plane in the course of being driven for commencing or opening any coal mine, and all the shafts, levels, planes, works, machinery, tramways and sidings, both below ground and above ground, in and adjacent to a coal mine, and any such shaft, level and inclined plane belonging to such coal mine;

"Shaft"

2. The expression "shaft" includes pit;

"Plan"

3. The expression "plan" includes a map and cross section and a correct copy or tracing of any original plan as so defined;

"Owner"

4. The expression "owner" when used in relation to any mine means any person or body corporate who is the immediate proprietor or lessee or occupier of any mine or of any part thereof, and does not include a person or body corporate who merely receives a royalty, rent or fine from a mine or is merely the proprietor of a mine subject to any lease, grant or licence for the working thereof and is merely the owner of the soil and not interested in the minerals of the mine; but any contractor for the working of a mine or any part thereof shall be subject to this Ordinance in like manner as if he were an owner but so as not to exempt the owner from any liability;

"Agent"

5. The expression "agent" when used in relation to any mine means any person having on behalf of the owner care or direction of any mine or of any part thereof, and superior to a manager appointed in pursuance of this Ordinance;

"Commissioner"

6. The expression "commissioner" means the commissioner of public works for the Territories;

"Inspector"

7. The expression "inspector" means an inspector appointed under the provisions of this Ordinance;

"Manager"

8. The expression "manager" means a manager holding a certificate of competency under the provisions of this Ordinance;

"Pit boss" and "fire boss"

9. The expressions "pit boss" and "fire boss" mean respectively a pit boss and fire boss holding certificates as such issued under the provisions of this Ordinance;

"Board"

10. The expression "board" means the board of examiners provided by this Ordinance. C. O. 16, s. 2.

## EMPLOYMENT OF PERSONS IN COAL MINES. PRECAUTIONS FOR SAFETY.

Register of employees

Production of

3. The owner, agent or manager of every mine to which this Ordinance applies shall keep in the office at the mine a register and shall cause to be entered in such register the name, age, residence and date of first employment of all persons employed in connection with the mine, and shall produce such register to any inspector under this Ordinance at all reasonable times when required by him, and allow him to inspect and copy the same. C. O. 16, s. 3.

Persons not permitted in mines

4. *No boy under the age of twelve years nor any woman or girl of any age shall be employed or be permitted to be in the workings of any mine.* 1899, c. 4, s. 1; rep. in part 1906, c. 3, s. 1.

Entrance to mine or communication with parts

Who shall not be in charge of machinery, etc.

5. When there is a shaft or incline plane or level in any mine to which this Ordinance applies, whether for the purpose of an entrance to such mine or of a communication from one part to another of such mine, and persons are taken up or down or along such shaft, plane or level by means of an engine, windlass or gin, driven or worked by steam or mechanical power or by an animal or by manual labour, a person shall not be allowed to have charge of such engine, windlas or gin or of any part of the machinery, ropes, chains or tackle connected therewith unless he is a male of at least eighteen years of age. C. O. 16, s. 5.

Failure to comply with registration or employment regulations is an offence against Ordinance

**6.** If any person contravenes or fails to comply with or permits any person to contravene or fail to comply with any provision of this Ordinance with respect to the registration of persons employed in such mine or to the employment of persons about any engine, windlass or gin, he shall be guilty of an offence against this Ordinance; and in case of any such contravention or noncompliance by any person whomsoever the owner, agent and manager shall each be guilty of an offence against this Ordinance. C. O. 16, s. 6.

Misrepresentation as to age

**7.** If it appears that a person employed in any mine or about an engine, windlass or gin connected therewith was employed on the representation of his parent or guardian that he was of that age at which his employment would not be in contravention of this Ordinance, and under the belief in good faith that he was of that age the owner, agent or manager of the mine and employer shall be exempt from any penalty in case it shall appear that the person so employed was not of such age and the parent or guardian making such false representation shall be deemed guilty of an offence against this Ordinance. C. O. 16, s. 7.

Persons not to work in mine unless every seam has two shafts

**8.** Notwithstanding any contract or agreement to the contrary the owner, agent or manager of a mine to which this Ordinance applies shall not employ any person in such mine or permit any person to be in such mine for the purpose of employment therein unless there are in communication with every seam of such mine for the time being at work at least two shafts or outlets separated by natural strata of not less than ten feet in breadth, by which shafts or outlets means of ingress and egress are available to the persons employed in such seam whether such two shafts or outlets belong to the same mine or one or more of them belong to another mine, and unless there is a communication of not less than four feet wide and three feet high between such two shafts or outlets, and unless there is at each of such two shafts or outlets or upon the works belonging to the mine and either in actual use or available for use within a reasonable time proper apparatus for raising or lowering persons at each such shaft or outlet:

Means of communication and of ingress and egress to be provided

Proviso

Provided that such separation shall not be deemed incomplete by reason only that openings through the strata between the two shafts or outlets have been made for temporary purposes of ventilation, drainage or otherwise, or in the case of mines where inflammable gas has not been found within the preceding twelve months for the same purposes although not temporary. C. O. 16, s. 8.

Contravention of foregoing by owner agent or manager

**9.** Every owner, agent or manager of a mine who acts in contravention of or fails to comply with the last preceding section shall be guilty of an offence against this Ordinance. C. O. 16, s. 9.

Working of mine may be prohibited

**10.** The Supreme Court or any judge thereof whether any other proceedings have or have not been taken may upon the application of any person authorised thereto by the commissioner prohibit by injunction the working of any mine in which any person is employed or is permitted to be for the purpose of employment in contravention of section 8 hereof and may award such costs in the matter of the injunction as the court or judge thinks just; but this provision shall be without prejudice to any other remedy permitted by law for enforcing the provisions of this Ordinance.

(2) Written notice of the intention to apply for such injunction in respect of any mine shall be given to the owner, agent or manager of such mine not less than ten days before the application is made. C. O. 16, s. 10.

When provisions as to shafts shall not apply

**11.** The provisions of this Ordinance with respect to shafts or outlets shall not apply in the following cases, that is to say:

1. In the case either of opening a new mine for the purpose of searching for or proving minerals or of any working for the purpose of making a communication between two or more shafts, so long as not more than twenty persons are employed below ground at any one time in the whole of the different seams in connection with each shaft or outlet in such new mine or such working;

2. In the case of any proved mine so long as it is exempted in writing by the commissioner on the ground either:

   (*a*) If the mine is not a mine with inflammable gas, that sufficient provision has been made against danger from other causes than explosions of gas by using stone, brick or iron in the place of wood for the lining of the shaft and the construction of the mid wall; or

   (*b*) That the workings in any seam of a mine have reached the boundary of the property or other extremity of the mineral field of which such seam is a part, and that it is expedient to work away the pillars already formed in course of the ordinary working;

and so long as there are not employed below ground at any one time in the whole of the different seams in connection with the shaft or outlet in any such mine more than ten persons, or (if the mine is not a mine with inflammable gas) then such larger number of persons as may for the time being be allowed by the commissioner. C. O. 16, s. 11.

Parts of mine worked separately treated as separate mines

**12.** Where two or more parts of a mine are worked separately the owner, agent or manager of the mine shall give notice in writing to that effect to the commissioner, and thereupon each such part shall for all the purposes of this Ordinance be deemed to be a separate mine.

Objection to division of mine into parts

(2) If the commissioner is of opinion that the division of a mine in pursuance of this section will permit of the evasion of the provisions of this Ordinance or in any way prevent the carrying of this Ordinance into effect, he may object to such division by notice served on the owner or agent of the mine. C. O. 16, s. 12.

### MANAGERS OF MINES.

Daily supervision of manager

**13.** Every mine to which this Ordinance applies shall except as hereinafter provided be under the control and daily supervision of a manager who has obtained a certificate of competency in accordance with the provisions of this Ordinance.

Penalty for working without manager

(2) If any mine to which this Ordinance applies is worked for more than thirty days without there being such a manager the owner and agent of such mine shall each be guilty of an offence against this Ordinance.

Exemption

(3) A mine in which less than twenty persons are ordinarily employed below ground shall be exempt from the provisions of this section unless the commissioner by notice in writing served on the owner or agent of such mine requires the same to be under the control of a manager. C. O. 16, s. 13.

Contractor cannot be a manager

**14.** A contractor for the mining of coal or a person employed by such contractor shall not be eligible for the position of manager in any mine operated under the provisions of this Ordinance. C. O. 16, s. 14.

Certificate of manager

**15.** A certificate of competency as a manager in form approved by the commissioner may be issued by the commissioner to any person who is entitled thereto under the provisions of this Ordinance, but no such certificate shall be issued to any person who has not had five years' practical experience of coal mining operations under ground. C. O. 16, s. 15.

**16.** Every person to whom a certificate of competency as a manager is issued shall be duly recorded as the holder of such certificate and shall pay therefor to the commissioner a fee of $5. C. O. 16, s. 16.

**Recording of certificate**

**17.** Every person holding a first class certificate of competency as a manager of coal mines obtained by examination in any province of Canada or other part of Her Majesty's dominions or in the United States of America may apply to the commissioner to be granted a certificate of competency under the provisions of this Ordinance; such application shall be accompanied by the certificate or certificates held by the applicant and he shall furnish such further proof as to his practical experience, ability, sobriety and general good conduct as the commissioner may require; if the certificates forwarded with such application and the further proof required as to practical knowledge, sobriety and general good conduct are of a satisfactory character the commissioner may issue a certificate of competency to such applicant and record him as the holder of such certificate. C. O. 16, s. 17.

**Granting certificates to persons holding foreign certificates**

**18.** Any person not the holder of a certificate of competency as a manager of coal mines obtained by examination in any province of Canada or other part of Her Majesty's dominions or the United States of America, who before the nineteenth day of September, 1898, had five years' practical experience in coal mining operations under ground and who on the said date was acting as the manager of any mine, may apply to the commissioner to be granted a certificate of competency as a manager under the provisions of this Ordinance; and if the proof of such service and such further proof of the sobriety, ability and general good conduct of the applicant as the commissioner may require is of a satisfactory character the commissioner may issue a certificate of competency as a manager to such applicant and duly record him as the holder of such certificate. C. O. 16, s. 18.

**Service certificate**

**19.** For the purpose of examining candidates who may desire to obtain certificates of competency as managers and who are not qualified for such certificates under the provisions of sections 17 and 18 of this Ordinance, there shall be a board of examiners consisting of the inspector, a certificated manager and a miner who has had at least five years' practical experience of coal mining under ground; the inspector shall be a permanent member of such board and the manager and miner shall be appointed by him at each mine during the time of his first and last inspection during each year.

**Examining board**

Place and date of examination

(2) Notice of the place and date at which the board will meet at each mine shall be given by the inspector to the manager of such mine two weeks before the date of such meeting.

Candidates for examination to give notice

(3) Candidates who may desire to submit themselves for examination at such meeting shall notify the inspector in writing one week before the date of the meeting.

Duties of examining board

(4) The board shall examine candidates presenting themselves for examination who have given the proper notice as to their practical experience and theoretical knowledge of all the operations connected with the mining of coal and management of mines, and may issue a certificate to such candidates as successfully pass such examination, reciting the facts and recommending the issue to such candidates by the commissioner of a certificate of competency as a manager.

When certificate shall issue

(5) Upon receipt of the certificate issued by the board, together with a fee of $15, the commissioner shall issue a certificate of competency as a manager to the holder of the certificate from the board and shall record him as the holder of such certificate of competency.

Cancellation or suspension of certificate for cause shown

(6) If at any time representation is made to the commissioner by an inspector or otherwise that a manager holding a certificate of competency under this Ordinance is by reason of incompetency or gross negligence unfit to discharge his duties or has been convicted of an offence against this Ordinance, the commissioner may if he thinks fit cause inquiry to be made into the conduct of such manager, and if the charges are proven against him the commissioner may cancel or suspend the certificate of such manager.

Record of same

(7) When the certificate of a manager is cancelled or suspended in pursuance of this Ordinance the commissioner shall cause such cancellation or suspension to be recorded in the register of holders of certificates.

Restoration

(8) The commissioner may at any time if it be shown to him to be just to do so renew or restore on such terms as he thinks fit any certificate which has been cancelled or suspended under the provisions of this Ordinance. C. O. 16, s. 19.

### PIT BOSS AND FIRE BOSS.

Pit or fire boss certificates on examination

**20.** The board may at any meeting held for the examination of candidates for certificates of competency as managers, examine such candidates as present themselves for certificates as pit bosses or fire bosses and to each candidate who successfully passes the examination prescribed by the board may upon payment of a fee of $3 issue a certificate, signed by the inspector, authorising him to act in such capacity.

(2) The inspector shall make a return to the commissioner of all certificates issued under the provisions of this section and shall transmit to the commissioner all fees collected in connection therewith.

Return of certificates issued

(3) Any person who on the nineteenth day of September, 1898, was acting as a pit boss or fire boss in any mine operated under the provisions of this Ordinance may, upon application to the inspector and payment of a fee of $3, be granted a certificate of qualification as a pit boss or fire boss, as the case may be, provided that such person proves to the satisfaction of the inspector that he has had five years' experience of coal mining operations under ground, and produces a certificate from the manager of the mine in which he is employed stating that he is filling the position of pit boss or fire boss in such mine. C. O. 16, s. 20.

Time certificate as pit or fire boss

**21.** No person shall act as pit boss or fire boss in any mine operated under the provisions of this Ordinance unless he is the holder of a certificate issued by the board authorising him to act in such capacity. C. O. 16, s. 21.

Necessity for boss certificate

### REPORTS AND RETURNS.

**22.** On or before the first day of February in every year the owner, agent or manager of every mine to which this Ordinance applies shall send to the commissioner a correct return specifying with respect to the year ending on the preceding thirty-first day of December, the quantity of coal wrought in such mine and the number of persons ordinarily employed in or about such mine below ground and above ground, distinguishing the persons employed below ground and above ground and the different classes and ages of the persons so employed and such return shall be in accordance with form A in the schedule hereto. C. O. 16, s. 22.

Output returns and returns as to employees

**23.** Every owner, agent or manager of a mine who fails to comply with the preceding section or makes any return prescribed thereby which is to his knowledge false in any particular shall be guilty of an offence against this Ordinance. C. O. 16, s. 23.

Making false returns

**24.** The aggregate results of such returns may be published but the individual return shall not be published without the consent of the person making the same or of the owner of the mine to which it relates, and no person other than government officials shall be entitled without such consent to see the same. C. O. 16, s. 24.

Publication of returns

### ACCIDENTS TO BE REPORTED.

All accidents to be reported

**25.** Where, in or about any mine to which this Ordinance applies, whether above or below ground, either loss of life or personal injury to any person employed in or about the mine occurs by reason of:

(*a*) Any explosion of gas, powder or of any steam boiler; or

(*b*) Any accident whatever;

the owner, agent or manager of the mine shall within forty-eight hours next after the explosion or accident send notice in writing of the explosion or accident and of the loss of life and personal injury occasioned thereby to the commissioner and shall specify in such notice the character of the explosion or accident and the number of persons killed and injured respectively C. O. 16, s. 25.

When death ensues

**26.** Where any personal injury of which notice is required to be sent under the last preceding section results in the death of the person injured notice in writing of the death shall be sent to the commissioner within twenty-four hours after such death comes to the knowledge of the owner, agent or manager. C. O. 16, s. 26.

Liability for noncompliance

**27.** Every owner, agent or manager who fails to act in compliance with the last two preceding sections shall be guilty of an offence against this Ordinance. C. O. 16, s. 27.

### NEW SHAFTS. ABANDONMENT OF MINES. CHANGE OF NAME OR OWNER. NUISANCES.

Notice to be given of opening, discontinuance reopening or change of owner of mine

**28.** In any of the following cases, namely:

(*a*) Where any working is commenced for the purpose of opening a new shaft for any mine to which this Ordinance applies;

(*b*) Where a shaft of any mine to which this Ordinance applies is abandoned or the working thereof discontinued;

(*c*) Where the working of a shaft of any mine to which this Ordinance applies is recommenced after any abandonment or discontinuance for a period exceeding two months; or

(*d*) Where any change occurs in the name of, or in the name of the owner, agent or manager of any mine to which this Ordinance applies or in the officers of any incorporated company which is the owner of a mine to which this Ordinance applies;

the owner, agent or manager of such mine shall give notice thereof to the commissioner within two months after such commencement, abandonment, discontinuance, recommencement or change; and if such notice is not given the owner, agent or manager shall be guilty of an offence against this Ordinance. C. O. 16, s. 28.

Entrance to unused mine to be securely fenced

**29.** Where any mine to which this Ordinance applies is abandoned or the working thereof discontinued, at whatever time such abandonment or discontinuance occurs the owner thereof shall cause the top of the shaft and any side entrance from the surface to be and to be kept securely fenced for the prevention of accidents:
Provided that—

Responsibility for fencing entrance

(*a*) Subject to any contract to the contrary the owner of the mine shall, as between him and any other person interested in the minerals of the mine, be liable to carry into effect this section and to pay any costs incurred by any other person interested in the minerals of the mine in carrying this section into effect;

Liability under other Ordinances

(*b*) Nothing in this section shall exempt any person from liability under any other Ordinance or otherwise.

(2) If any person fail to act in conformity with this section he shall be guilty of an offence against this Ordinance. C. O. 16, s. 29.

When shaft or entrance becomes a nuisance

**30.** Any shaft or side entrance which is not fenced as required by the last preceding section if within fifty yards of any highway, road, footpath or place of public resort or in open or uninclosed land shall be deemed to be a nuisance. C. O. 16, s. 30.

Burning slack near pit mouth

**31.** Whenever slack deposited in the neighbourhood of the pit's mouth is unfenced and burning and thereby in a dangerous condition, the commissioner may instruct the owners of such mine to inclose such slack with a fence and take such other necessary precautions as he may require. C. O. 16, s. 31.

Plan of abandoned mine to be sent to commissioner

**32.** When any mine to which this Ordinance applies is abandoned the owner of such mine at the time of such abandonment shall within three months after such abandonment send to the commissioner an accurate plan on a scale of not less than one hundred feet to one inch or on such other scale as the plan used in the mine at the time of such abandonment is constructed showing the boundaries of the workings of such mine up to the time of the abandonment; but no person except an inspector under this Ordinance or other government official shall be entitled, without the consent of the owner of the mine, to see such plan until after the lapse of ten years from the time of such abandonment; every owner who fails to comply with this section shall be guilty of an offence against this Ordinance. C. O. 16, s. 32.

### NOTICES.

Service of notices and documents

**33.** All notices under this Ordinance shall be in writing or print or partly in writing or partly in print, and all notices and documents requred by this Ordinance to be served or sent in by or to the commissioner or an inspector may be either delivered personally or sent by post by prepaid letter and if sent by post shall be deemed to have been served and received respectively at the time when the letter containing the same would be delivered in the ordinary course of post; and in proving such service or sending it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office. C. O. 16, s. 33.

### INSPECTORS. POWERS AND DUTIES.

Appointment of inspectors

**34.** The Lieutenant Governor in Council may from time to time appoint any fit persons to be inspectors of mines to which this Ordinance applies and assign them their duties and may award them such remuneraton as he deems proper and may remove such inspectors from office for cause. C. O. 16, s. 34.

Powers of inspector

**35.** An inspector under this Ordinance shall have power to do all or any of the following things, namely:

1. To make such examination and inquiry as may be necessary to ascertain whether the provisions of this Ordinance relating to matters above ground or below ground are complied with in the case of any mine to which this Ordinance applies;

2. To enter, inspect and examine any mine to which this Ordinance applies, and every part thereof, at all reasonable times by day and night but so as not to impede or obstruct the working of the said mine;

3. To examine into and make inquiry respecting the state and condition of any mine to which this Ordinance applies, or any part thereof, and the ventilation of the mine and the sufficiency of the special rules for the time being in force in the mine and all matters and things connected with or relating to the safety of the persons employed in or about the mine or any mine contiguous thereto;

4. To examine and inquire into the competency of all managers in charge of mines under this Ordinance and report upon the same to the commissioner;

5. To exercise such other powers as may be necessary for carrying this Ordinance into effect. C. O. 16, s. 35.

Obstructing inspector

**36.** Every person who wilfully obstructs any inspector in the execution of his duty under this Ordinance and every owner, agent and manager of a mine who refuses or neglects to furnish to the inspector the means necessary for making any entry, inspection, examination or inquiry under this Ordinance in relation to such mine or manager thereof shall be guilty of an offence against this Ordinance. C. O. 16, s. 36.

### PLANS OF MINES.

Plan of mine to be kept in office

Production of plan to inspector

**37.** The owner, agent or manager of any mine to which this Ordinance applies shall keep in the office at the mine an accurate plan of the workings of such mine showing the workings up to at least six months previously and shall produce to an inspector under this Ordinance such plan and shall, if requested by the inspector, mark on such plan the progress of the workings of the mine up to the time of such production and shall allow the inspector to examine the same; but the inspector is not hereby authorised to make a copy of any part of such plan. C. O. 16, s. 37.

Failure to produce full and accurate plan an offence

**38.** If the owner, agent or manager of any mine to which this Ordinance applies fails to keep such plan as is prescribed by the last preceding section or wilfully refuses to produce or allow to be examined such plan or wilfully withholds any portion of any plan or conceals any part of the workings of his mine or produces an imperfect or inaccurate plan, unless he shows that he was ignorant of such concealment, imperfection or inaccuracy he shall be guilty of an offence against this Ordinance.

Inspector may order plan to be made

(2) The inspector may by notice in writing (whether penalty for such offence has or has not been inflicted) require the owner, agent or manager to cause an accurate plan, such as is prescribed by the said section, to be made within a reasonable time at the expense of the owner of the mine on a scale of not less than one hundred feet to one inch or such other scale as the plan then used in the mine is constructed on and if the owner, agent or manager fails within twenty-one days after such notice, or such further time as may be shown to be necessary, to make such plan or cause it to be made he shall be guilty of an offence against this Ordinance. C. O. 16, s. 38.

## GENERAL RULES.

**39.** The following general rules shall be observed so far as is reasonably practicable in every mine to which this Ordinance applies:

Ventilation of mines

Rule 1. An adequate amount of ventilation shall be constantly produced in every mine to dilute and render harmless noxious gases to such an extent that the working places of the shafts, levels, stables and workings of such mine, and the travelling roads to and from such working places shall be in a fit state for working and passing therein.

Division into districts or splits

Rule 2. An adequate amount of ventilation shall mean not less than one hundred cubic feet of pure air per minute for each man, boy, horse and mule employed in a mine and as much more as the inspector may direct which shall sweep the face of each working place. Every mine shall be divided into districts or splits of not more than seventy men in each district, and each district shall be supplied with a separate current of fresh air. All intake air shall travel free from all stagnant water, stables and old workings and every place shall be bratticed up within four yards of the face. On all main roads where a door is required the inspector may order that two doors shall be placed so that while boxes are being taken through the one the other shall remain closed and no air shall be lost.

Intake air to be pure

Preservation of air

Exemptions

(*a*) The above provisions as to splits and bratticing shall not apply to mines in which safety lamps are not necessarily employed;

Narrow working places to be near ventilation

(*b*) In all mines so exempt all narrow working places shall not be driven more than twenty yards ahead of ventilation or such lesser distances as will prevent the air in the said narrow working places becoming visibly foul.

Inspection to take place when inflammable gas found

Rule 3. In every mine in which inflammable gas has been found within the preceding twelve months, then once in every twenty-four hours if one shift of workmen is employed and once in every twelve hours if two shifts are employed during any twenty-four hours, a fire boss shall so far as is reasonably practicable immediately before the time for commencing work in any part of the mine inspect with a safety lamp that part of the mine and the roadways leading thereto and shall make a true report of the conditions thereof so far as ventilation is concerned, and a workman shall not go to work in such part until the same and the roadways leading thereto are stated to

Work not to proceed until roadways reported safe be safe. Every such report shall be recorded without delay in a book which shall be kept at the mine for the purpose and shall be signed by the fire boss.

**Inspection as to ventilation**

Rule 4. In every mine in which inflammable gas has not been found within the preceding twelve months then once in every twenty-four hours a fire boss shall so far as is reasontbly practicable immediately before the time for commencing work in any part of the mine inspect that part of the mine and the roadways leading thereto and shall make a true report of the condition thereof so far as ventilation is concerned and a workman shall not go to work in any such part until the same and the roadways leading thereto are stated to be safe. Every report shall be recorded without delay in a book which shall be kept at the mine for the purpose and shall be signed by the fire boss.

**Unused entrances in mines to be fenced**

Rule 5. All entrances to any place not in actual course of working and extension shall be properly fenced across the whole width of such entrance so as to prevent persons inadvertently entering the same.

**Stations**

Rule 6. A station or stations shall be appointed at the entrance to a mine or to different parts of the mine as the case may require and a workman shall not pass beyond any such station until the mine beyond the same has been inspected and stated to be safe.

**When danger exists all workmen to be withdrawn**

Rule 7. If at any time it is found by the person for the time being in charge of the mine or any part thereof that by reason of noxious gases prevailing in such mine or such part thereof, or of any cause whatever, the mine or the said part is dangerous every workman shall be withdrawn from the mine or such part thereof as is found dangerous and the manager or a fire boss shall inspect the mine or such part thereof as is found dangerous and if the danger arises from inflammable gas shall inspect the same with a locked safety lamp, and in every case shall make a true report of the condition of such mine or part thereof, and a workman shall not except in so far as is necessary for inquiring into the cause of danger or for the removal thereof or for exploration be readmitted into the mine, or such part thereof as was so found dangerous until the same is stated by such report not to be dangerous. Every such report shall be recorded in a book which shall be kept at the mine for the purpose and shall be signed by the manager or fire boss.

**Inspection to follow**

**Where accumulation of explosive gas likely locked safety lamps to be used**

Rule 8. In every working approaching any place where there is likely to be an accumulation of explosive gas no lamp or light other than a locked safety lamp shall be allowed or used, and whenever safety lamps are required by this Ordinance or

Examination of safety lamps

Lamps not to be opened and no light to be struck

by the special rules made in pursuance of this Ordinance to be used a competent person who shall be appointed for the purpose shall examine every safety lamp immediately before it is taken into the workings for use and ascertain it to be secure and securely locked; and in any part of a mine in which safety lamps are required to be used they shall not be used until they have been examined and found secure and securely locked and shall not without due authority be unlocked and in the said part of a mine a person shall not unless he is appointed for the purpose have in his possession any key or contrivance for opening the lock of any such safety lamp or any lucifer match or apparatus of any kind for striking a light. Where it is necessary to work coal in any part of a ventilating district with safety lamps it shall not be allowable to work with a naked light in another part of the same ventilating district situated between the place where such safety lamps are being used and the return airway.

Use of gunpowder and other explosives

Rule 9. Gunpowder or other explosive or inflammable substance shall only be used in the mine under ground as follows:

(*a*) It shall not be stored in the mine;

(*b*) It shall not be taken into the mine except in a case or canister containing not more than four pounds;

(*c*) A workman shall not have in use at any one time in any one place more than one of such cases or canisters;

(*d*) In charging holes for blasting an iron or steel pricker shall not be used and a person shall not have in his possession in the mine under ground any iron or steel pricker and an iron or steel tamping rod or stemmer shall not be used for ramming either the wadding or the first part of the tamping or stemming on the powder;

(*c*) No explosive shall be forcibly pressed into a hole of insufficient size and when a hole has been charged the explosive shall not be unrammed and no hole shall be bored for a charge at a distance of less than two feet from any hole where the charge has missed fire but where a space of two feet from the first hole cannot be obtained the explosive may be unrammed under the sanction and supervision of the shot examiner;

(*f*) It shall not be used except in accordance with the following regulations during three months after any inflammable gas has been found in any such mine, namely:

(2) A fire boss shall immediately before firing the shot examine the place where it is to be used and all places contiguous thereto within a radius of twenty-five yards and shall not allow the shot to be fired unless he finds it safe to do so, and a shot shall not be fired except by or under the direction of the fire boss, but the provisions of this subsection shall not apply to mines in which safety lamps are not necessary unless the commissioner by notice in writing served on the owner, agent or manager of such mine requires it to be so applied.

Conditions of shot firing

(3) If the place where the shot is to be fired is dry and dusty then the shot shall not be fired unless one of the following conditions is observed, that is to say:

(*a*) Unless the place of firing and all contiguous and accessible places within a radius of twenty yards are at the time of firing in a wet state from a thorough watering or other treatment equivalent to watering in all parts where dust is lodged, whether roof, floor or sides; or

(*b*) In the case of places in which watering would injure the roof or floor unless the explosive is so used with water or other contrivance as to prevent it from inflaming gas or dust or is of such a nature that it cannot inflame gas or dust;

(*c*) All hauling or other roads that are dry and dusty shall be watered sufficiently often to allay the dust.

(4) If the said inflammable gas issued so freely that it showed a blue cap on the flame of the safety lamp it shall only be used:

When blue cap shows on flame of safety lamp

(*a*) Either in those cases of stone drifts, stone work and sinking of shafts in which the ventilation is so managed that the return air from the place where the powder is used passes into the main return air course without passing any place in actual course of working; or

(*b*) When the persons ordinarily employed in the mine are out of the mine or out of the part of the mine where it is used; or

(*c*) Where a mine is divided into separate panels in such manner that each panel has an independent intake and return airway from the main aircourse and the main return aircourse the provisions of this rule with respect to gunpowder or other explosive inflammable substance shall apply to each such panel in like manner as if it were a separate mine.

**Dangerous accumulation of water**

Rule 10. When any place adjoining any working is likely to contain a dangerous accumulation of water the workings approaching such place shall not exceed eight feet in width and there shall be constantly kept at a sufficient distance not being less than five yards in advance at least one borehole near the centre of the working and sufficient flank boreholes on each side.

**Underground travelling planes to have means of signalling and places of refuge**

Rule 11. Every underground plane on which persons travel which is self acting or worked by an engine, windlass or gin shall be provided if exceeding thirty yards in length with some proper means of signalling between the stopping places and the ends of the plane and shall be provided in every case at intervals of not more than twenty yards with sufficient manholes for places of refuge.

**Refuge for animals**

Rule 12. Every road on which persons travel underground where the load is drawn by a horse or other animal shall be provided at intervals of not more than fifty yards with sufficient manholes or with a space for a place of refuge, which space shall be of sufficient length and of at least three feet in width between the waggons running on the tram road and the side of such road.

**Refuge places to be kept clear**

Rule 13. Every manhole and space for a place of refuge shall be constantly kept clear and no person shall place anything in a manhole or such space so as to prevent access thereto.

**Fencing top of unused shaft**

Rule 14. The top of every shaft which for the time being is out of use or used only as an air-shaft shall be securely fenced.

**Fence may be temporarily removed for purposes of repair**

Rule 15. The top and all entrances between the top and bottom of every working or pumping shaft shall be properly fenced but this shall not be taken to forbid the temporary removal of the fence for the purposes of repairs or other operations if proper precautions are used.

**Where natural strata unsafe**

Rule 16. Where the natural strata are not safe every working or pumping shaft shall be securely cased, lined or otherwise made secure.

**Roofs and sides to be made secure**

Rule 17. The roof and sides of every travelling road and working place shall be made secure and a person shall not unless appointed for the purpose of exploring or repairing, travel or work in any such travelling road or working place which is not so made secure.

**Optional use of downcast shaft**

Rule 18. Where there is a downcast and furnace shaft and both such shafts are provided with apparatus in use for raising and lowering persons, every person employed in the mine shall upon giving reasonable notice have the option of using the downcast shaft.

Rule 19. In any mine which is usually entered by means of machinery a competent person of such age as prescribed by this Ordinance shall be appointed for the purpose of working the machinery which is employed in lowering and raising persons therein and shall attend for the said purpose during the whole time that any person is below the ground in the mine.

**Competent person to have charge of machinery**

Rule 20. Every working shaft used for the purpose of drawing minerals or for the lowering or raising of persons shall if exceeding fifty yards in depth and not exempted in writing by the inspector be provided with guides and some proper means of communicating distinct and definite signals from the bottom of the shaft to the surface and from the surface to the bottom of the shaft and to every entrance for the time being in work between the surface and the bottom of the shaft.

**Shafts to be provided with guides and means of communication**

Rule 21. A sufficient cover overhead shall be used when lowering or raising persons in every working shaft except where it is worked by a windlass or where the person is employed about the pump or some work of repair in the shaft, or where a written exemption is given by the inspector.

**Overhead covering**

Rule 22. A single link chain shall not be used for lowering or raising persons in any working shaft or plane except for the short coupling chain attached to the cage or load.

**Single link chain not to be used**

Rule 23. There shall be on the drum of every machine used for the lowering or raising persons such flanges or horns and also if the drum is conical such other appliances as may be sufficient to prevent the rope from slipping.

**Prevention of slipping of rope**

Rule 24. There shall be attached to every machine worked by steam, water or mechanical power and used for lowering and raising persons an adequate brake and also a proper indicator in addition to any mark on the rope which shows to the person who works the machine the position of the cage or load in the shaft.

**Machine to have brake and indicator attachments**

Rule 25. Every fly wheel and all exposed and dangerous parts of the machinery used in or about the mine shall be and be kept securely fenced.

**Parts of machinery to be fenced**

Rule 26. Every steam boiler shall be provided with a proper steam gauge and water gauge to show respectively the pressure of steam and the height of water in the boiler and with a proper safety valve.

**Boilers to be provided with gauges**

Rule 27. After dangerous gas has been found in any mine a barometer and a thermometer shall be placed above ground in a conspicuous position near the entrance to the mine.

**Using barometer and thermometer when gas found**

**Damage to mine fittings prohibited**

Rule 28. No person shall wilfully damage or without proper authority remove or render useless any fence, fencing, casing, lining, guide, means of signalling, signal, cover, change, flange, horn, brake, indicator, steam gauge, water gauge, safety valve, or other applicances or thing provided in any mine in compliance with this Ordinance.

**Observance of directions**

Rule 29. Every person shall observe such directions with respect to working as may be given to him with a view to comply with this Ordinance or the special rules.

**Examination of machinery and shafts**

Rule 30. The manager or a pit boss shall once at least in every twenty-four hours examine the external parts of the machinery and the state of the head gear, working places, levels, planes, ropes, chains and other works of the mine which are in actual use and once at least in every week shall examine the state of the shafts by which persons ascend or descend and the guides or conductors therein and shall make a true report of the result of such examination and such report shall be recorded in a book to be kept at the mine for the purpose and shall be signed by the manager or pit boss.

**Employees may appoint their own inspector**

Rule 31. The persons employed in a mine may from time to time appoint one or two of their number to inspect the mine at their own cost and the persons so appointed shall be allowed once or oftener in every shift, day, week or month accompanied if the owner, agent or manager of the mine thinks fit by himself or one or more officers of the mine to go to every part of the mine and to inspect the shafts, level planes, working places, return air ways, ventilating apparatus, old workings and machinery and shall be afforded by the owner, agent and manager and all persons in the mine every facility for the purpose of such inspection and shall make a true report of the result of such inspection and such report shall be recorded in a book to be kept at the mine for the purpose and shall be signed by the persons who made the same; and if the report state the existence or apprehended existence of any danger the owner, agent or manager shall forthwith cause a true copy of the report to be sent to the commissioner.

**Said inspectors to report**

**Inspection of books**

Rule 32. The books mentioned in this section or a copy thereof shall be kept at the office of the mine and any inspector under this Ordinance and any person employed in the mine may at all reasonable times inspect and take copies of and extracts from any such books.

**Cage, entering or leaving of**

Rule 33. Every cage used in any mine shall be stationary and shall rest upon chains or catches before any person is allowed to enter upon or to leave to same. No person shall enter or leave a cage without the consent of the banksman or onsetter.

English speaking persons only to hold responsible position

Rule 34. No person unable to speak and read English shall be appointed to or shall occupy any position of trust or responsibility, namely: as banksman, onsetter, signalman, brakesman, pointsman, furnaceman, or engineer or be employed at the windlass of a sinking pit in or about a mine subject to this Ordinance whereby through his ignorance, carelessness or negligence he might endanger the life or limb of any person employed in or about a mine.

Contravention of or noncompliance with general rules

Rule 35. Every person who contravenes or who does not comply with any of the general rules of this section shall be guilty of an offence against this Ordinance; and in the event of any contravention of or noncompliance with any of the said general rules in the case of any mine to which this Ordinance applies by any person whomsoever the owner, agent and manager shall each be guilty of an offence against this Ordinance unless he proves that he had taken all reasonable means by publishing and to the best of his power enforcing the said rules as regulations for the working of the mine to prevent such contravention or noncompliance.

Miner to examine place of working

Rule 36. It shall be the duty of every miner employed in any mine to carefully examine the place where he is working on entering the same in the morning and on re-entering after firing a shot and when leaving it at night and he shall immediately report to the manager any defects or dangers existing therein.

All persons to report respecting defects or danger

Rule 37. It shall be the duty of every miner or other person employed in any mine to immediately report to the manager or pit boss any defect or danger which he may know to exist in any part of the mine.

When props timbers or cap pieces required

Rule 38. Every miner in want of props or timbers and cap pieces shall notify the manager or pit boss of the fact at least one day in advance giving the length and number of props, timbers or cap pieces required, but in cases of emergency the timbers may be ordered immediately upon the discovery of any danger.

(2) The place and manner of leaving the orders for timbers and cap pieces shall be designated in the general rules of the mine. C. O. 16, s. 39.

## SPECIAL RULES.

Application of local or special rules

**40.** There shall be established in every mine to which this Ordinance applies such rules (referred to in this Ordinance as special rules) for the conduct or guidance of the persons acting in the management of such mine or employed in or about the same as under the particular state and circumstances of such mine may appear best calculated to prevent dangerous accidents and to provide for the safety and proper discipline of the persons employed in or about the mine and such special rules shall be approved by the commissioner and shall be observed in and about every such mine. C. O. 16, s. 40.

Such rules to be approved by commissioner

### OFFICERS AND PENALTIES.

Who may be guilty of offence

**41.** Every person employed in or about a mine other than the owner, agent or manager who is guilty of any act or omission which in the case of the owner, agent or manager would be an offence against this Ordinance shall be deemed to be guilty of an offence against this Ordinance. C. O. 16, s. 41.

Penalties

**42.** Every person who is guilty of an offence against this Ordinance shall on summary conviction thereof be liable to a penalty not exceeding if he is an owner, agent or manager $100 and if he is not an owner, agent or manager $10 for each offence; and if the inspector has given written notice of any such offence then in case of an owner, agent or manager to a further penalty not exceeding $100 and not less than $10 for every day after such notice that such offence continues to be committed and in case of other persons to a further penalty not exceeding $5 for every day after such notice that such offence continues to be committed. C. O. 16, s. 42.

Power to imprison offenders

**43.** When a person who is an owner, agent or manager of a mine or a person employed in or about a mine is guilty of an offence against this Ordinance which in the opinion of the court that tries the case is one which was reasonably calculated to endanger the safety of the persons employed in or about the mine or to cause serious personal injury to any of such persons or to cause a dangerous accident, and was committed wilfully by the personal act, personal default or personal negligence of the person accused such person shall be liable if the court is of opinion that a pecuniary penalty will not meet the circumstances of the case to imprisonment with or without hard labour for a period not exceeding three months. C .O. 16, s. 43.

# COLLEGE OF PHYSICIANS AND SURGEONS.

*See* MEDICAL PROFESSION.

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# COMMISSIONERS FOR OATHS.

## An Ordinance respecting Commissioners to Administer Oaths.

C.O. 1898 c. 24
March 15, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** All duly enrolled advocates of the Territories shall be commissioners for taking affidavits in the said Territories. C. O. 24, s. 1.

Advocates to be commissioners

**2.** The Lieutenant Governor may by a commission or commissions under his hand and the seal of the Territories from time to time empower such and so many persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations within the Territories. C. O. 24, s. 2.

Lieutenant Governor may appoint commissioners

**3.** The Lieutenant Governor may by a commission or commissions under his hand and the seal of the Territories from time to time empower such and so many persons as he thinks fit and necessary to administer oaths and take and receive affidavits, declarations and affirmations without the Territories in or concerning any cause, matter or thing depending or in any wise concerning any of the proceedings in the Supreme Court of the Territories and every [illegible] or affirmation taken [illegible] effectual and shall be of the like force [illegible] and purposes as if [illegible] tion had been [illegible] before a commissioner [illegible] Territories [illegible]

[illegible] Territories [illegible]

[illegible] Territories [illegible]

**4.** [illegible] of the Territories [illegible] their shares (hereinafter referred to as a company limited by shares) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company with the addition of the word "Limited" as the last word in such name;

(*b*) The objects for which the proposed company is to be established;

(*c*) The place in the Territories in which the registered office of the company is proposed to be situated;

(*d*) The time of the existence of the proposed company if it is intended to secure incorporation for a fixed period;

(*e*) A declaration that the liability of the members is limited;

(*f*) The amount of capital with which the company proposes to be registered divided into shares of a certain fixed amount;

subject to the following regulations:

(*a*) That no subscriber shall take less than one share;

(*b*) That each subscriber of the memorandum of association shall write opposite to his name the number of shares he takes;

(*c*) That each subscriber of the memorandum of association shall be the *bona fide* holder in his own right of the share or shares for which he has subscribed in the memorandum of association. 1901, c. 20, s. 7.

**Memorandum of association of a company limited by guarantee**

**8.** Where a company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the company in the event of the same being wound up (hereinafter referred to as a company limited by guarantee) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company with the addition of the words "Limited by Guarantee" as the last words in such name;

(*b*) The objects for which the proposed company is to be established;

(*c*) The place in the Territories in which the registered office of the company is proposed to be situated;

(*d*) A declaration that each member undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member and of the costs, charges and expenses of winding up the company and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding a specified amount. 1901, c. 20, s. 8.

Memorandum of association of an unlimited company

**9.** Where a company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited company) the memorandum of association shall contain the following things, that is to say:

(*a*) The name of the proposed company;

(*b*) The objects for which the proposed company is to be established;

(*c*) The place in the Territories in which the registered office of the company is proposed to be situated. 1901, c. 20, s. 9.

Signature and effect of memorandum of association

**10.** The memorandum of association shall be signed by each subscriber in the presence of and be attested by one witness at the least; and it shall when registered bind the company and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in the memorandum contained on the part of himself, his heirs, executors and administrators a covenant to observe all the conditions of such memorandum subject to the provisions of this Ordinance. 1901, c. 20, s. 10

### *Articles of Association.*

Regulations to be prescribed by articles of association

**11.** The memorandum of association may in the case of a company limited by shares and shall in the case of a company limited by guarantee or unlimited be accompanied when registered by articles of association signed by the subscribers to the memorandum of association and prescribing such regulations for the company as the subscribers to the memorandum of association deem expedient. The articles shall be expressed in separate paragraphs numbered arithmetically; they may adopt all or any of the provisions contained in the table marked A in the first schedule hereto; they shall in the case of a company (whether limited by guarantee or unlimited) that has a capital divided into shares state the amount of capital with which the company proposes to be registered; and in the case of a company (whether limited by guarantee or unlimited) that has not a capital divided into shares state the number of members with which the company proposes to be registered for the purpose of enabling the registrar to determine the fees payable on registration. In a company limited by guarantee or unlimited and having a capital divided into shares, each subscriber shall take one share at the least and shall write opposite to his name in the memorandum of association the number of shares he takes. 1901, c. 20, s. 11.

**Application of table**

**12.** In the case of a company limited by shares if the memorandum is not accompanied by articles of association or in so far as the articles do not exclude or modify the regulations contained in the table marked A in the first schedule hereto the last mentioned regulations shall so far as the same are applicable be deemed to be the regulations of the company in the same manner and to the same extent as if they had been inserted in articles of association and the articles had been duly registered. 1901, c. 20, s. 12.

**Signature and effect of articles of association**

**13.** The articles of association shall be signed by each subscriber in the presence of and be attested by one witness at least. When registered they shall bind the company and the members thereof to the same extent as if each member had subscribed his name and affixed his seal thereto and there were in such articles contained a covenant on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Ordinance; and all moneys payable by any member of the company in pursuance of the conditions and regulations of the company or any of such conditions or regulations shall be deemed to be a debt due from such member to the company in the nature of a specialty debt. 1901, c. 20, s. 13.

### *Registration.*

**Registration**

**14.** The memorandum of association and articles of association shall be delivered to the registrar who shall retain and register the same. 1901, c. 20, s. 14.

**Fees**

**15.** There shall be paid to the registrar by the company having a capital divided into shares in respect of the several matters mentioned in the table marked B in the first schedule hereto the several fees therein specified or such smaller fees as the Lieutenant Governor in Council may from time to time direct; and by a company not having a capital divided into shares in respect of the several matters mentioned in the table marked C in the first schedule hereto the several fees therein specified or such smaller fees as the Lieutenant Governor in Council may from time to time direct.

(2) The fees received under this section shall form part of the general revenue fund of the Territories. 1901, c. 20, s. 15.

Certificate of incorporation

**16.** Upon the registration of the memorandum of association and of the articles of association in cases where articles of association are required by this Ordinance or by the desire of the parties to be registered the registrar shall certify under his hand and seal of office that the company is incorporated and in the case of a limited company that the company is limited and in the case of a mining company the liabilities of the members whereof is specially limited under section 63 hereof that the said company is so specially limited under said section 63; and such certificate shall be published in the official gazette.

(2) The incorporation of the company shall take effect from the date of incorporation mentioned in the certificate of incorporation. 1901, c. 20, s. 16.

Effect of registration

**17.** The subscribers of the memorandum of association together with such other persons as from time to time become members of the company shall thereupon be a body corporate under the name contained in the memorandum of association capable forthwith of exercising all the functions of an incorporated company and having perpetual succession and a common seal with power to hold lands but with such liability on the part of the members to contribute to the assets of the company in the event of the same being wound up as is hereinafter mentioned. 1901, c. 20, s. 17.

Registrar's certificate conclusive evidence

**18.** Any certificate of the incorporation of the company given by the registrar under his seal of office shall be conclusive evidence that all the requirements of the Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with.

(2) Any certificate of the incorporation of any company given by the registrar shall be received in evidence as if it were the original certificate; and any copy of or extract from any of the documents kept and registered at the office for the registration of joint stock companies if duly certified to be a true copy or extract under the hand of the registrar and his seal of office shall for all purposes be received in evidence as of equal validity with the original document. 1901, c. 20, s. 18.

Copies of memorandum, etc., to be given to members

**19.** A copy of the memorandum of association having annexed thereto the articles of association if any shall be forwarded to every member at his request on payment of the sum of $1 or such less sum as may be prescribed by the company for each copy; and if any company makes default in forwarding a copy of the memorandum of association and articles of association if any to a member in pursuance of this section the company so making default shall upon summary conviction for each offence be liable to a penalty not exceeding $5; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 19.

Penalty

Prohibition against identity of names

**20.** No company shall be registered under a name identical with that by which a subsisting company is already registered or so nearly resembling the same as in the opinion of the registrar to be calculated to deceive except in a case where such subsisting company is in the course of being dissolved and testifies its consent in such manner as the registrar requires; and if any company through inadvertence or otherwise is without such consent as aforesaid registered by a name identical with that by which a subsisting company is registered or so nearly resembling the same as to be calculated to deceive such first mentioned company shall upon the direction of the registrar change its name. 1901, c. 20, s. 20.

Change of name

**21.** Any company with the sanction of a special resolution of the company and with the approval of the registrar may change its name. 1901, c. 20, s. 21.

Registration of new name

**22.** Upon the change of name of any company under the provisions of either of the two next preceding sections the registrar shall enter the new name on the register in place of the former name and shall issue a certificate of incorporation altered to meet the circumstances of the case. 1901, c. 20, s. 22.

Effect of alteration of name

**23.** No such alteration of name shall affect any rights or obligations of the company or render defective any legal proceedings instituted or to be instituted by or against the company; and any legal proceedings may be continued or commenced against the company by its new name that might have been continued or commenced against the company by its former name. 1901, c. 20, s. 23.

Power of registrar to strike names of defunct companies off the register

**24.** Where the registrar has reasonable cause to believe that a company (whether registered before or after the passing of this Ordinance) is not carrying on business or in operation he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the registrar does not within one month of sending the letter receive an answer thereto he shall within fourteen days after the expiration of the month send to the company by post a registered letter referring to the first letter and stating that no answer thereto had been received by him and that if an answer is not received to the second letter within one month from the date thereof a notice will be published in the gazette with a view to striking the name of the company off the register.

(3) If the registrar either receives an answer from the company to the effect that it is not carrying on business or in operation or does not within one month after sending the second letter receive any answer thereto the registrar may publish in the gazette and send to the company a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will unless cause is shown to the contrary be struck off the register and the company dissolved.

(4) At the expiration of the time mentioned in the notice the registrar may unless cause to the contrary is previously shown by such company strike the name of such company off the register and shall publish notice thereof in the gazette; and on the publication in the gazette of such last mentioned notice the company whose name is so struck off shall be dissolved:

Provided that the liability if any of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved.

(5) If any company or member or creditor thereof feels aggrieved by the name of such company having been struck off the register in pursuance of this section the company or member or creditor may apply to the court; and the court if satisfied that the company was at the time of the striking off carrying on business or in operation and that it is just to do so may order the name of the company to be restored to the register; and thereupon the company shall be deemed to have continued in existence as if the name thereof had never been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had never been struck off.

(6) A letter or notice authorised or required for the purpose of this section to be sent to a company may be sent by post addressed to the company at its registered office or if no office

has been registered addressed to the care of some director or officer of the company or if there be no director or officer of the company whose name and address are known to the registrar the letter or notice in identical form may be sent to each of the persons who subscribed the memorandum of association addressed to him at the address mentioned in the memorandum.

(7) Where a company is being wound up and the registrar has reasonable cause to believe that no liquidator is acting or that the affairs of the company are fully wound up and the returns required to be made by the liquidator have not been made for a period of six consecutive months after notice by the registrar demanding the returns has been sent by post to the registered address of the company and to the liquidator at his last known place of business the provisions of this section shall apply in like manner as if the registrar had not within one month after sending the second letter in subsection 2 of this section mentioned received any answer thereto. 1901, c. 20, s. 24.

## PART II.

Sections 25-36
see Cap. 31. 1906,

## Distribution of Capital and Liability of Members and Officers of Companies.

### *Distribution of Capital.*

**Definition of member**

**25.** The subscribers of the memorandum of association of any company under this Ordinance shall be deemed to have agreed to become members of the company whose memorandum they have subscribed; and upon the registration of the company shall be entered as members on the register of members hereinafter mentioned; and every other person who has agreed to become a member of a company under this Ordinance and whose name is entered on the register of members shall be deemed to be a member of the company. 1901, c. 20, s. 25.

**Nature of interest, etc., in company**

**26.** The shares or other interest of any member in a company under this Ordinance shall be personal estate capable of being transferred in manner provided by the regulations of the company and shall not be of the nature of real estate; and each share shall in the case of a company having a capital divided into shares be distinguished by its appropriate number. 1901, c. 20, s. 26.

**Register of members**

**27.** Every company under this Ordinance shall cause to be kept in one or more books a register of its members; and there shall be entered therein the following particulars:

(a) The names and addresses and the occupations if any of the members of the company; with the addition in the case of a company having a capital divided into shares of a statement of the shares held by each member distinguishing each share by its number; and the amount paid or agreed to be considered as paid on the shares of each member;

(b) The date at which the name of any person was entered in the register as a member;

(c) The date at which any person ceased to be a member.

Penalty

(2) Any company acting in contravention of this section shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which its default in complying with the provisions of this section continues; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such contravention shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 27.

Transfer by personal representative

**28.** Any transfer of the share or other interest of a deceased member of a company under this Ordinance made by his personal representative shall notwithstanding such personal representative may not himself be a member be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

(2) The personal representative of a deceased member shall represent the shares or stock of such deceased member at all meetings of the company and may vote as a shareholder in respect thereof. 1901, c. 20, s. 28.

Entry of transfer by transferor

**29.** A company shall on the application of the transferor of any shares or interest in the company enter in its register of members the name of the transferee of such share or interest in the same manner and subject to the same conditions as if the application for such entry were made by the transferee. 1901, c. 20, s. 29.

Transfer to escape liability

**30.** Any transfer of shares in a company under this Ordinance made for the purpose of avoiding or escaping the further liability of a shareholder as such for a nominal or no consideration or to a person in the menial or domestic service of the transferor shall be deemed to be a fraudulent transfer and need not be recognised by the company or by the court on the winding up of the company. 1901, c. 20, s. 30.

Annual list of shares

**31.** Every company having a capital divided into shares shall make once at least in every year a list in the form E in the second schedule of all persons who on the fourteenth day succeeding the day on which the ordinary general meeting or if there is more than one ordinary meeting in each year the first of such ordinary general meetings is held are members of the company; and such list shall state the names and so far as may be possible the addresses and occupations of all the members therein mentioned and the number of shares held by each of them and shall contain a summary specifying the following particulars:

1. The amount of capital of the company and the number of shares into which it is divided;

2. The number of shares taken from the commencement of the company up to the date of the summary;

3. The amount of calls made on each share;

4. The total amount of calls received;

5. The total amount of calls unpaid;

6. The total amount of shares forfeited;

7. The names, addresses and occupations of the persons who have ceased to be members since the last list was made and the number of shares formerly held by each of them;

8. The total amount of debt due from the company in respect of all mortgages and charges; and

9. The names and addresses of the persons who are the directors of the company at the date of the summary.

(2) The above list and summary shall be contained in a separate part of the register and shall be completed within seven days after such fourteenth day as is mentioned in this section and shall be signed by the manager or secretary of the company and a copy shall forthwith be forwarded to the registrar.

Penalty

(3) Any company making default in complying with the provisions of this section with respect to forwarding such list of members or summary as is hereinbefore mentioned to the registrar shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such default continues; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 31.

Company to give notice of consolidation, etc., of shares

**32.** Every company under this Ordinance having a capital divided into shares that has consolidated and divided its capital into shares of larger amount than its existing shares or converted any portion of its capital into stock shall forthwith give notice to the registrar of such consolidation, division or conversion specifying the shares so consolidated, divided or converted and in default shall be subject to the penalty in the last section mentioned. 1901, c. 20, s. 32.

**33.** Where any company having a capital divided into shares has converted any portion of its capital into stock and given notice of such conversion to the registrar all the provisions of this Ordinance which are applicable to shares only shall cease as to so much of the capital as is converted into stock; and the register of the members hereby required to be kept by the company and the list of members to be forwarded to the registrar shall show the amount of stock held by each member in the list instead of the amount of shares and the particulars relating to shares hereinbefore required. 1901, c. 20, s. 33.

**Effect of conversion into stock**

**34.** No notice of any trust (expressed, implied or constructive) shall be entered on the register or be receivable by the registrar in the case of companies under this Ordinance. 1901, c. 20, s. 34.

**No trust to be entered on register**

**35.** The company shall not be bound to see to the execution of any trust (whether expressed, implied or constructive) in respect of any share; and the receipt of the shareholder in whose name the same stands on the books of the company shall be a valid and binding discharge to the company for any dividend or money payable in respect of such share whether or not notice of the trust has been given to the company; and the company shall not be bound to see to the application of the money paid upon such receipt. 1901, c. 20, s. 35.

**Company not bound to see to trusts, etc.**

**36.** A certificate under the common seal of the company specifying any share or shares or stock held by any member of a company shall be *prima facie* evidence of the title of the member to the share or shares or stock therein specified. 1901, c. 20, s. 36.

**Evidence of title to shares, etc.**

**37.** The register of members commencing from the date of the registration of the company shall be kept at the registered office of the company hereinafter mentioned. Except when closed as hereinafter mentioned it shall during business hours subject to such reasonable restrictions as the company in general meeting may impose but so that no less than two hours in each day be appointed for inspection be open to the

**Inspection of register**

inspection of any member *gratis* and to the inspection of any other person on the payment of twenty-five cents or such less sum as the company may prescribe for each inspection; and every such member or other person may require a copy of such register or of any part thereof or of such list or summary of members as is hereinbefore mentioned on payment of twenty-five cents for every hundred words required to be copied.

(2) If such inspection or copy is refused the company shall for each refusal upon summary conviction be liable to a penalty not exceeding $10 and a further penalty not exceeding $10 for every day during which such refusal continues; and every director, manager, secretary and officer of the company who shall knowingly authorise or permit such refusal shall upon summary conviction be liable to the like penalty; and in addition to the above penalty any judge of the supreme court sitting in chambers may upon summary order compel an immediate inspection of the register. 1901, c. 20, s. 37.

**Closing of register**

**38.** Any company under this Ordinance may upon giving notice by advertisement in some newspaper circulating in the district in which the registered office of the company is situated close the register for members for any time or times not exceeding in the whole thirty days in each year. 1901, c. 20, s. 38.

**Notice to registrar of increase of capital or members**

**39.** Where a company has a capital divided into shares (whether shares may or may not have been converted into stock) notice of any increase in such capital beyond the registered capital and where a company has not a capital divided into shares notice of any increase in the number of members beyond the registered number shall be given to the registrar in the case of an increase of capital within fifteen days from the date of the passing of the resolution by which such increase has been authorised and in the case of an increase of members within fifteen days from the time at which such increase of members has been resolved on or has taken place; and the registrar shall forthwith record the amount of such increase of capital or members;

(2) If such notice is not given within the period aforesaid the company in default shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such neglect to give notice continues; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 39.

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see Cap. 31 - 1906.

**Remedy for improper entry or omission in the register**

**40.** If the name of any person is without sufficient cause entered in or omitted from the register of members of any company under this Ordinance or if default is made or unnecessary delay takes place in entering in the register the fact of any person having ceased to be a member of the company the person or member aggrieved or any member of the company or the company itself may by motion in the supreme court or by application to a judge thereof sitting in chambers apply for an order that the register may be rectified; and the court or judge may either refuse such application with or without costs to be paid by the applicant or may if satisfied of the justice of the case make an order for the rectification of the register; and may direct the company to pay all costs of such motion or application and any damages the party aggrieved may have sustained.

(2) The court or judge may in any proceeding under this section decide on any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from the register whether such question arises between two or more members or alleged members or between any members or alleged members and the company; and generally the court or judge may in any such proceeding decide any question that it may be necessary or expedient to decide for the rectification of the register:

Provided that the court or judge may direct an issue to be tried in which any question of law may be raised and an appeal shall lie. 1901, c. 20, s. 40.

**Notice to registrar of rectification of register**

**41.** Whenever any order has been made rectifying the register in the case of a company hereby required to send a list of its members to the registrar the court shall by its order direct that due notice of such rectification be given to the registrar. 1901, c. 20, s. 41.

**Register to be evidence**

**42.** The register of members shall be *prima facie* evidence of any matters by this Ordinance directed or authorised to be inserted therein. 1901, c. 20, s. 42.

### *Liability of Members.*

**What liability share deemed to carry**

**43.** Every share in any company shall be deemed and taken to have been issued and to be held subject to the payment of the whole amount thereof in cash unless the same shall have been otherwise determined by a contract duly made in writing and filed with the registrar at or before the issue of such share. 1901, c. 20, s. 43.

Shareholder's liability on unpaid portion

**44.** Except as hereinafter otherwise provided each shareholder until the whole amount of his shares, stock or other interest has been paid up shall be individually liable to the creditors of the company to an amount equal to that not paid up thereon but shall not be liable to an action therefor by any creditor before an execution against the company has been returned unsatisfied in whole or in part; and the amount due on such execution but not beyond the amount so unpaid of his said shares, stock or other interest shall be the amount so recoverable with costs against such shareholder.

(2) Any shareholder may plead by way of defence in whole or in part any set off which he could set up against the company except a claim for unpaid dividends or a salary or allowance as a president or a director of the company.

(3) The shareholders of the company shall not as such be held responsible for any act, default or liability whatsoever of the company or for any engagement, claim, payment, loss, injury, transaction, matter or thing whatsoever related to or connected with the company beyond the unpaid amount of their respective shares in the capital stock thereof. 1901, c. 20, s. 44.

Trustees, etc.

**45.** No person holding shares, stock or other interest in the company as executor, administrator, guardian or trustee shall be personally subject to liability as a shareholder; but the estate and funds in the hands of such person shall be liable in like manner and to the same extent as the testator or intestate or the minor, ward or other person interested in the trust fund would be if living and competent to act and holding such shares, stock or other interest in his own name. 1901, c. 20, s. 45.

Nonpersonal liability of mortgagee or pledgee of shares

**46.** No person holding shares, stock or other interest as collateral security shall be personally subject to liability as a shareholder; but the person pledging such shares, stock or other interest as such collateral security shall be considered as holding the same and shall be liable as a shareholder in respect thereof. 1901, c. 20, s. 46.

Liability, etc., of shareholders in case of winding up

**47.** In the event of a company formed under this Ordinance or under any other Ordinance of the Territories being wound up every present and past member of such company shall be liable to contribute to the assets of the company to an amount sufficient for payment of the debts and liabilities of the company and the costs, charges and expenses of the winding up and for payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves with the qualifications following that is to say:

(*a*) No past member shall be liable to contribute to the assets of the company if he has ceased to be a member for a period of one year or upwards prior to the commencement of the winding up;

(*b*) No past member shall be liable to contribute in respect of any debt or liability of the company contracted after the time at which he ceased to be a member;

(*c*) No past member shall be liable to contribute to the assets of the company unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Ordinance;

(*d*) In the case of a company limited by shares no contribution shall be required from any member exceeding the amount if any unpaid on the shares in respect of which he is liable as a present or past member;

(*e*) In the case of a company limited by guarantee no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association;

(*f*) Nothing in this Ordinance contained shall invalidate any provision contained in any contract whereby the liability of individual members upon any such contract is restricted or whereby the funds of the company are alone made liable in respect of such contract;

(*g*) No sum due to any member of a company in his character of a member by way of dividends, profits or otherwise shall be deemed to be a debt of the company payable to such member in a case of competition between himself and any other creditor not being a member of the company; but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories among themselves. 1901, c. 20, s. 47.

### *Liability of Directors.*

**Company may have directors with unlimited liabilities**

**48.** Where a company is formed as a limited company the liability of the directors or managers of such company or the managing director may if so provided by the memorandum of association or by resolution as hereinafter provided be unlimited. 1901, c. 20, s. 48.

Liability of directors past and present where liability is unlimited

**49.** The following are the contributions to be required in the event of the winding up of a limited company from any director or manager whose liability is in pursuance of this Ordinance unlimited:

(*a*) Subject to the provisions hereinafter contained any such director or manager whether past or present shall in addition to his liability if any to contribute as an ordinary member be liable to contribute as if he were at the date of his commencement of the winding up a member of an unlimited company;

(*b*) No contribution required from any past director or manager who has ceased to hold such office for a period of one year or upwards prior to the commencement of the winding up shall exceed the amount if any which he is liable to contribute as an ordinary member of the company;

(*c*) No contribution required from any past director or manager in respect of any debt or liability of the company contracted after the time at which he ceased to hold such office shall exceed the amount if any which he is liable to contribute as an ordinary member of the company;

(*d*) Subject to the provisions contained in the regulations of the company no contribution required from any director or manager shall exceed the amount if any which he is liable to contribute as an ordinary member unless the court deems it necessary to require such contribution in order to satisfy the debts and liabilities of the company and the costs, charges and expenses of the winding up. 1901, c. 20, s. 49.

Director with unlimited liability may have set-off

**50.** In the event of the winding up of any limited company the court if it thinks fit may allow to any director or manager of such company whose liability is unlimited by way of set-off any moneys due to him from the company other than dividends or profits. 1901, c. 20, s. 50.

Notice to be given to director on his election that his liability will be unlimited

**51.** In any limited company in which in pursuance of this Ordinance the liability of a director or manager is unlimited the directors or managers of the company if any and the member who proposes any person for election or appointment to such office shall add to such proposal a statement that the liability of the person holding such office will be unlimited; and the promoters, directors, manager and secretary if any of such company or one of them shall before such person accepts such office or acts therein give him notice in writing that his liability will be unlimited.

(2) If any director, manager or proposer make default in adding such statement or if any promoter, director, manager or secretary make default in giving such notice he shall be liable to a penalty not exceeding $500 and he shall also be liable for any damage which the person so elected or appointed may sustain from such default but the liability of the person elected or appointed shall not be affected by such default. 1901, c. 20, s. 51.

**Dividends not to be issued in insolvency of company**

**52.** The directors of the company shall not declare or pay any dividend when the company is insolvent or any dividend the payment of which renders the company insolvent or diminishes the capital thereof; but if any director present when such dividend is declared forthwith or if any director then absent within twenty-four hours after he has become aware thereof and able so to do enters on the minutes of the board of directors his protest against the same and within eight days thereafter causes such protest to be published in at least one newspaper published at or as near as may be possible to the head office or chief place of business of the company such director may thereby and not otherwise exonerate himself from liability. 1901, c. 20, s. 52.

**Prohibits loan to shareholders**

**53.** No loan shall be made by the company to any shareholder; and if such loan is made all directors and other officers of the company making the same and in anywise assenting thereto shall be jointly and severally liable to the company for the amount thereof and also to the third parties to the extent of such loan with legal interest for all debts of the company contracted from the time of the making of the loan to that of the repayment thereof; but this section shall not apply to a building society. 1901, c. 20, s. 53.

**Liability of directors for wages**

**54.** The directors of a company shall be jointly and severally liable to the clerks, labourers, servants and apprentices thereof for all debts not exceeding six months' wages due for services performed for the company whilst they are such directors respectively; but no director shall be liable to an action therefor unless the company is sued therefor within one year after the debt becomes due nor unless such director is sued therefor within one year from the time when he ceased to be such director nor unless an execution against the company is returned unsatisfied in whole or in part; and the amount unsatisfied on such execution shall be the amount recoverable with costs from the directors. 1901, c. 20, s. 54.

## *Prospectus.*

Publication of prospectus

**55.** Every prospectus issued by or on behalf of any company or intended company shall state the date on which it was issued; and that date shall be taken for all purposes as the date of publication.

(2) A copy of every such prospectus shall be signed by every person who is named therein as a director or proposed director of the company or by his duly authorised agent; and shall be filed with the registrar on or before the date of its publication.

(3) The registrar shall not register any prospectus unless it is so dated and signed; and no prospectus shall be issued until so filed for registration; and every prospectus shall state on the face of it that it has been so filed.

(4) If default is made in complying with the requirements of this section every officer and agent of the company who is party to the issue of the prospectus shall upon summary conviction be liable to a fine not exceeding $25 for every day during which the default continues. 1901, c. 20, s. 55.

Contents of prospectus

**56.** Every prospectus of a company must state:

(*a*) The contents of the memorandum of association with the names, occupations and addresses of the signatories and the number of shares subscribed by them respectively;

(*b*) The number of shares if any fixed by the articles of association as the qualification of a director;

(*c*) The names, occupations and addresses of the directors or proposed directors and the number of shares held or agreed to be taken by them respectively and whether any such share is held or agreed to be taken by any of them otherwise than in his own right as beneficial owner;

(*d*) The minimum subscription on which the directors may proceed to commence business and the minimum amount payable on application and allotment on each share;

(*e*) The number and amount of shares and debentures issued or agreed to be issued as fully or partly paid up otherwise than in cash; and in the latter case the extent to which they are so paid up; and in either case the consideration for which such shares or debentures have been issued or are proposed or intended to be issued;

(*f*) The names and addresses of the vendors of any property purchased or acquired by the company or proposed so to be purchased or acquired which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of publication of the prospectus and where there is more than one vendor or the company is a subpurchaser the amount payable in cash, shares or debentures to each vendor;

(*g*) The amount if any payable as purchase money in cash, shares or debentures of any such property as aforesaid specifying the amount payable for good will if any such amount is separately payable;

(*h*) The amount if any payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares in the company or the rate of any such commission;

(*i*) The amount or estimated amount of preliminary expenses;

(*j*) The amount intended to be paid to any promoter and the consideration for which it is to be paid;

(*k*) The amount intended to be reserved for working capital;

(*l*) The dates, parties and short purport or effect of every material contract and every material fact known to any director or promoter of the company who is a party to the issue of the prospectus and a reasonable time and place at which any material contract or a copy thereof may be inspected:

Provided that this requirement shall not apply to a contract entered into in the ordinary course of business carried on or intended to be carried on by the company or to any contract entered into more than five years before the date of publication of the prospectus;

(*m*) The names and addresses of the auditors if any of the company;

(*n*) Full particulars of the nature and extent of the interest if any of every director in the promotion of or in the property proposed to be acquired by the company with a statement of all sums paid or agreed to be paid to him in cash or shares by any person either to qualify him as a director or otherwise for services rendered by him in connection with the formation of the company.

(2) For the purposes of this section every person shall be deemed to be a vendor who has entered into any contract (absolute or conditional) for the sale or purchase of any of the property to be acquired by the company in any case where:

(*a*) The purchase money is not fully paid at the date of publication of the prospectus; or

(*b*) The purchase money is to be paid or satisfied (wholly or in part) out of the proceeds of the issue offered by subscription by the prospectus; or

(*c*) The contract depends for its fulfilment on such issue.

(3) This section shall not apply to a circular or notice inviting existing members or debenture holders of a company to subscribe for further shares or debentures; but subject as aforesaid this section shall apply to any prospectus whether issued or with reference to the formation of a company or subsequently:

Provided that:

(*a*) The requirements as to the memorandum of association; and the qualification, remuneration and interest of directors; the names, descriptions and addresses of directors or proposed directors; and the amount or estimated amount of preliminary expenses; shall not apply in the case of a prospectus published more than one year after the date at which the company is entitled to commence business;

and

(*b*) In the case of a prospectus published more than one year after the date at which the company is entitled to commence business the obligation to disclose all material contracts shall be limited to a period of two years immediately preceding the publication of the prospectus.

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus shall be void.

(5) Where any such prospectus as is mentioned in this section is published as a newspaper advertisement it shall not be necessary to specify the contents of the memorandum of association or the signatories thereto and the number of shares subscribed to by them. 1901, c. 20, s. 56.

**Liability for statement in prospectus**

**57.** Where a prospectus or notice invites persons to subscribe for shares in or debentures or debenture stock of a company every person who is a director of a company at the time of the issue of the prospectus or notice and every person who having authorised such naming of him is named in the prospectus or notice as a director of the company or as having agreed to become a director of the company either immediately or after an interval of time and every promoter of the company and every person who has authorised the issue of the prospectus or notice shall be liable to pay compensation to all persons who shall subscribe for any shares, debentures or debenture stock on the faith of such prospectus or notice for the loss or damage they may have sustained by reason of any untrue statement in the prospectus or notice or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith unless it is proved:

(*a*) With respect to every such untrue statement not purporting to be made on the authority of an expert or of a public official document or statement that he had reasonable ground to believe and did up to the time of the allotment of the stock, debentures or debenture stock (as the case may be) believe that the statement was true;

(*b*) With respect to every such untrue statement purporting to be a statement by or contained in what purports to be a copy of or an extract from a report or valuation by an engineer, valuer, accountant or other expert that it fairly represented the statement made by such engineer, valuer, accountant or other expert or was a correct and fair copy of or extract from the report or valuation:

Provided always that notwithstanding that such untrue statement fairly represented the statement made by such engineer, valuer, accountant or other expert or was a correct and fair copy of an extract from the report or valuation such director, person named, promoter or other person who authorised the issue of the prospectus or notice as aforesaid shall be liable to pay compensation as aforesaid if it be proved that he had no reasonable ground to believe that the person making the statement, report or valuation was competent to make it;

(*c*) With respect to every such untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document that it was a correct and fair representation of such statement or copy of or extract from such document or unless it is proved that having consented to become a director of the company he withdrew his consent before the issue of the prospectus or notice and that the prospectus or notice was issued without his authority or consent or that the prospectus was issued without his knowledge or consent and that on becoming aware of its issue he forthwith gave reasonable public notice that it was so issued without his knowledge or consent or that after the issue of such prospectus or notice and before allotment thereunder he on becoming aware of any untrue statement therein withdrew his consent thereto and caused reasonable public notice of such withdrawal and of the reason therefor to be given.

(2) A promoter in this section means a promoter who was a party to the preparation of the prospectus or notice or of the portion thereof containing such untrue statement but shall not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company.

(3) Where any company existing at the passing of this Ordinance which has issued shares or debentures shall be desirous of obtaining further capital by subscriptions for shares or debentures and for that purpose shall issue a prospectus or notice no director of such company shall be liable in respect of any statement therein unless he shall have authorised the issue of such prospectus or notice or have adopted or ratified the same.

(4) In this section the word "expert" includes any person whose profession gives authority to a statement made by him. 1901, c. 20, s. 57.

**Indemnity where name of person has been improperly inserted as a director**

**58.** Where any such prospectus or notice as aforesaid contains the name of a person as director of the company or as having agreed to become a director thereof and such person has not consented to become a director or has withdrawn his consent before the issue of such prospectus or notice and has not authorised or consented to the issue thereof the directors of the company except any without whose knowledge or consent the prospectus or notice was issued and any other person who authorised the issue of such prospectus or notice shall be liable to indemnify the person named as a director of the company or as having agreed to become a director thereof as aforesaid against all damages, costs, charges and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or notice or in defending himself against any action or legal proceedings brought against him in respect thereof. 1901, c. 20, s. 58.

**Contribution from co-directors, etc.**

**59.** Every person who by reason of his being a director or named as a director or as having agreed to become a director or of his having authorised the issue of the prospectus or notice has become liable to make any payment under the provisions of this Ordinance shall be entitled to recover contribution as in cases of contract from any other person who if sued separately would have been liable to make the same payment. 1901, c. 20, s. 59.

**Restrictions on appointment or advertisement of director**

**60.** A person shall not be capable of being appointed director of a company by the articles of association and shall not be named as a director or proposed director of a company in any prospectus issued by or in behalf of the company unless before the registration of the articles or the publication of the prospectus (as the case may be) he has by himself or by his agent authorised in writing—

(*a*) Signed and filed with the registrar a consent in writing to act as such director; and

(*b*) Either signed the memorandum of association for a number of shares not less than his qualification if any or signed and filed with the registrar a contract in writing to take from the company and pay for his qualification shares if any.

(2) On the application for registration of the memorandum and articles of association of a company the applicant shall deliver to the registrar a list of the persons who have consented to be directors of the company; and if this list contains the name of any person who has not so consented the applicant shall be liable on summary conviction to a fine not exceeding $200.

(3) Provided that this section shall not apply to a company which does not issue any invitation to the public to subscribe for its shares or to a prospectus issued by or on behalf of a

company after the expiration of one year from the date at which the company is entitled to commence business. 1901, c. 20, s. 60.

Circulating misleading documents

**61.** Where any advertisement, letter head, postal card, account or document issued, published or circulated by any corporation, association or company or any officer, agent or employee of any such corporation, association or company purports to state the subscribed capital of the company then the capital actually and in good faith subscribed and no more shall be so stated; and any such corporation, association, company, officer, agent or employee who causes to be inserted an advertisement in any newspaper or who publishes, issues or circulates or causes to be published, issued or circulated any advertisement, letter head, post card, account or document which states as the subscribed capital of such company any larger sum than the amount of such subscribed capital so actually and in good faith subscribed as aforesaid or which contains any untrue or false statement as to the incorporation, control, supervision, management of financial standing of such corporation, association or company and which statement is intended or calculated or likely to mislead or deceive any person dealing or having any business or transaction with said corporation, association or company or with any officer, agent or employee of the association, corporation or company shall upon summary conviction be liable to a penalty not exceeding $200 and costs and in default of payment the offender being an officer, agent or employee as aforesaid shall be imprisoned for a term not exceeding three months and not less than one month; and on a second or any subsequent conviction he may be imprisoned for a term not exceeding twelve months and not less than three months. 1901, c. 20, s. 61.

Penalty

## PART III.

## POWERS, MANAGEMENT AND ADMINISTRATION.

### *Preference Shares.*

Preference shares

**62.** The directors of any company incorporated or reincorporated under this Ordinance may with the sanction of a special resolution of the company previously given in general meeting create and issue any part of the capital as preference shares giving the same such preference and priority as respects dividends and otherwise over ordinary shares as may be declared by the special resolution.

(2) The special resolution may provide that the holders of such preference shares shall have the right to select a certain

stated proportion of the board of directors or may give them such other control over the affairs of the company as may be considered expedient.

(3) Holders of such preference shares shall be shareholders within the meaning of this Ordinance and shall in all respects possess the rights and be subject to the liabilities of shareholders within the meaning of this Ordinance:

Provided however that in respect of dividends and otherwise they shall as against the original or ordinary shareholders be entitled to the preference given by any special resolution as aforesaid.

(4) Nothing in this section shall affect or impair the rights of creditors of any company. 1901, c. 20, s. 62.

### *Issue of shares without personal liability by Mining Companies.*

**Mining companies with specially limited liability on shares**

**63.** The memorandum of association of a company incorporated or reincorporated under this Ordinance the objects whereof are restricted to acquiring, managing, developing, working and selling mines, mineral claims and mining properties and the winning, getting, treating, refining and marketing of mineral therefrom may contain a provision that no liability beyond the amount actually paid upon shares and stocks in such company by the subscribers thereto or holders thereof shall attach to such subscriber or holder; and the certificate of incorporation issued under section 16 of this Ordinance shall state that the company is specially limited under this section. 1901, c. 20, s. 63.

**Shares to be specially marked**

**64.** Where a certificate of incorporation incorporating any such company or a licence to any foreign company has been issued containing the provisions mentioned in section 63 of this Ordinance every certificate of shares or stock issued by the company shall bear upon the face thereof distinctly written or printed in red ink after the name of the company the words "Issued under section 63 respecting Mining Companies of *The Companies Ordinance*," and where such shares or stock are issued subject to further assessment the word "Assessable" or if not subject to further assessment the word "Nonassessable" as the case may be. 1901, c. 20, s. 64.

**Charter, prospectuses and other documents of such company to be specially marked**

**65.** Every mining company the memorandum of association of which contains the said provision shall have written or printed on its charter, prospectus, stock certificates, bonds, contracts, agreements, notices, advertisements and other official publications and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all bills of parcels, invoices, receipts and letter heads of the company immediately after or under the name of such company and shall have engraved upon its seal the words "Nonpersonal Liability;" and every such company which refuses or knowingly neglects to comply with this section shall incur a penalty of $20 for every day during which such name is not so kept written or printed, recoverable upon summary conviction; and every director, manager, secretary and officer of the company who knowingly and wilfully authorises or permits such default shall be liable to the like penalty. 1901, c. 20, s. 65.

Enforcement of payment of assessments on such shares

**66.** In the event of any call or calls on assessable shares in a company so incorporated remaining unpaid by the subscriber thereto or holder thereof for a period of sixty days after the notice and demand of payment such shares may be declared to be in default; and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of such sale in some newspaper published or circulating in the city or district where the principal office of the company is situated for a period of one month; and such notice shall contain the number of the certificate or certificates of such shares and the number of shares, the amount of the assessment due and unpaid and the time and place of sale; and in addition to the publication of the notice aforesaid notice shall be personally served upon such subscriber or holder by registered letter mailed to his last known address; and if the subscriber or holder of such shares shall fail to pay the amount due upon such shares with interest upon the same and cost of advertising before the time fixed for such sale the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment together with interest and cost of advertising:

Provided that if the price of the shares so sold exceeds the amount due with interest and cost thereon the excess shall be paid to the defaulting subscriber or holder. 1901, c. 20, s. 66.

Liability of shareholder on such shares

**67.** No shareholder or subscriber for shares in any company so incorporated shall be personally liable for nonpayment of any calls made upon his shares beyond the forfeiture and sale in the event of the nonpayment of such calls of the amount if any already paid on the shares held or subscribed for; nor shall such shareholder or subscriber be personally liable for any debt contracted by the company or for any sum payable by the company beyond the amount if any paid by him upon such shares. 1901, c. 20, s. 67.

**68.** Whenever any shares have been heretofore issued by any company duly incorporated under any Ordinance as fully paid up shares either at a discount or in payment for any mine, mineral claim or mining property purchased or acquired by such company or for the acquiring whereof such company has been incorporated all such shares shall except as to any debts contracted by the company before the passing of this Ordinance in regard to which the liability on such shares shall be the same as if this Ordinance had not been passed be deemed and held to be fully paid up and the holder thereof shall be subject to no personal liability thereon in the same manner as if the memorandum of association of the company had contained the provision aforesaid. 1901, c. 20, s. 68.

Existing companies

### *Adjustment of Calls and Dividends.*

**69.** Nothing contained in this Ordinance shall be deemed to prevent any company incorporated under this Ordinance if authorised by its regulations as originally framed or as altered by special resolution from doing any one or more of the following things, namely:

Adjustment of calls and dividends

1. Making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the time of payment of such calls;

2. Accepting from any member of the company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made.

3. Paying dividends in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others. 1901, c. 20, s. 69.

### *Subdivision of Shares.*

**70.** Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorised so to do by its regulations as originally framed or as altered by special resolution as by subdivision of its existing shares or any of them to divide its capital or any part thereof into shares of smaller amount than is fixed by its memorandum of association:

Subdivision of shares

Provided that in the subdivision of existing shares the proportion between the amount that is paid and the amount if any which is unpaid on each share of reduced amount shall indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company and in all bills of parcels, invoices, receipts and letter heads of the company immediately after or under the name of such company and shall have engraved upon its seal the words "Nonpersonal Liability;" and every such company which refuses or knowingly neglects to comply with this section shall incur a penalty of $20 for every day during which such name is not so kept written or printed, recoverable upon summary conviction; and every director, manager, secretary and officer of the company who knowingly and wilfully authorises or permits such default shall be liable to the like penalty. 1901, c. 20, s. 65.

**Enforcement of payment of assessments on such shares**

**66.** In the event of any call or calls on assessable shares in a company so incorporated remaining unpaid by the subscriber thereto or holder thereof for a period of sixty days after the notice and demand of payment such shares may be declared to be in default; and the secretary of the company may advertise such shares for sale at public auction to the highest bidder for cash by giving notice of such sale in some newspaper published or circulating in the city or district where the principal office of the company is situated for a period of one month; and such notice shall contain the number of the certificate or certificates of such shares and the number of shares, the amount of the assessment due and unpaid and the time and place of sale; and in addition to the publication of the notice aforesaid notice shall be personally served upon such subscriber or holder by registered letter mailed to his last known address; and if the subscriber or holder of such shares shall fail to pay the amount due upon such shares with interest upon the same and cost of advertising before the time fixed for such sale the secretary shall proceed to sell the same or such portion thereof as shall suffice to pay such assessment together with interest and cost of advertising:

Provided that if the price of the shares so sold exceeds the amount due with interest and cost thereon the excess shall be paid to the defaulting subscriber or holder. 1901, c. 20, s. 66.

**Liability of shareholder on such shares**

**67.** No shareholder or subscriber for shares in any company so incorporated shall be personally liable for nonpayment of any calls made upon his shares beyond the forfeiture and sale in the event of the nonpayment of such calls of the amount if any already paid on the shares held or subscribed for; nor shall such shareholder or subscriber be personally liable for any debt contracted by the company or for any sum payable by the company beyond the amount if any paid by him upon such shares. 1901, c. 20, s. 67.

Existing companies

**68.** Whenever any shares have been heretofore issued by any company duly incorporated under any Ordinance as fully paid up shares either at a discount or in payment for any mine, mineral claim or mining property purchased or acquired by such company or for the acquiring whereof such company has been incorporated all such shares shall except as to any debts contracted by the company before the passing of this Ordinance in regard to which the liability on such shares shall be the same as if this Ordinance had not been passed be deemed and held to be fully paid up and the holder thereof shall be subject to no personal liability thereon in the same manner as if the memorandum of association of the company had contained the provision aforesaid. 1901, c. 20, s. 68.

### *Adjustment of Calls and Dividends.*

Adjustment of calls and dividends

**69.** Nothing contained in this Ordinance shall be deemed to prevent any company incorporated under this Ordinance if authorised by its regulations as originally framed or as altered by special resolution from doing any one or more of the following things, namely:

1. Making arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the time of payment of such calls;

2. Accepting from any member of the company who assents thereto the whole or a part of the amount remaining unpaid on any share or shares held by him either in discharge of the amount of a call payable in respect of any other share or shares held by him or without any call having been made.

3. Paying dividends in proportion to the amount paid up on each share in cases where a larger amount is paid up on some shares than on others. 1901, c. 20, s. 69.

### *Subdivision of Shares.*

Subdivision of shares

**70.** Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorised so to do by its regulations as originally framed or as altered by special resolution as by subdivision of its existing shares or any of them to divide its capital or any part thereof into shares of smaller amount than is fixed by its memorandum of association:

Provided that in the subdivision of existing shares the proportion between the amount that is paid and the amount if any which is unpaid on each share of reduced amount shall be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived. 1901, c. 20, s. 70.

**Statement of shares to accord with special resolution**

**71.** The statement of the number and amount of the shares into which the capital of the company is divided contained in every copy of the memorandum of association or any other official document issued after the passing of any special resolution shall be in accordance with such special resolution; and any company which makes default in complying with the provisions of this section shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director, manager, secretary and officer of the company who knowingly or wilfully authorises or permits any such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 71.

### *Share Warrants.*

**Warrant of limited shares fully paid up or of stock may be issued to bearer**

**72.** In the case of a company limited by shares the company, if authorised to do so by its regulations as originally framed or as altered by special resolution and subject to the provisions of such regulations may with respect to any share which is fully paid up or with respect to stock issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares of stock therein specified; and may provide by coupons or otherwise for the payment of the future dividends on the share or shares or stock included in such warrant hereinafter referred to as a share warrant. 1901, c. 20, s. 72.

**Effects of and mode of transfer of share warrant**

**73.** A share warrant shall entitle the bearer of such warrant to the shares or stock specified in it; and such shares or stock may be transferred by the delivery of the share warrant. 1901, c. 20, s. 73.

**Registration of bearer of share warrant Surrender of warrant**

**74.** The bearer of a share warrant shall subject to the regulations of the company be entitled on surrendering such warrant for cancellation to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of members the name of any bearer of a share warrant in respect of the shares or stock specified therein without the share warrant being surrendered and cancelled. 1901, c. 20, s. 74.

**Rights of bearer of share warrant as member of company**

**75.** The bearer of a share warrant may if the regulations of the company so provide be deemed to be a member of the company within the meaning of this Ordinance either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the company in cases where such a qualification is prescribed by the regulations of the company. 1901, c. 20, s. 75.

Entries in register in case of share warrant

**76.** On the issue of a share warrant in respect of any share or stock the company shall strike out of its register of members the name of the member then entered therein as holding such share or stock as if he had ceased to be a member; and shall enter in the register the following particulars:

(*a*) The fact of the issue of the warrant;

(*b*) A statement of the shares or stock included in the warrant distinguishing each share by its number;

(*c*) The date of the issue of the warrant;

and until the warrant is surrendered the above particulars shall be deemed to be the particulars which are required by the twenty-seventh section of this Ordinance to be entered in the register of members of a company; and on the surrender of a warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a member. 1901, c. 20, s. 76.

Particulars of share warrant in annual summary

**77.** After the issue by the company of a share warrant the annual summary required by the thirty-first section of this Ordinance shall contain the following particulars:

(*a*) The total amount of shares or stock for which share warrants are outstanding at the date of the summary;

(*b*) The total amount of share warrants which have been issued and surrendered respectively since the last summary was made; and

(*c*) The number of shares or amount of stock comprised in each warrant. 1901, c. 20, s. 77.

### *Reduction of Capital and Shares.*

Power to reduce capital

**78.** Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorised to do so by its regulations as originally framed or as altered by special resolution as to reduce its capital; but no such resolution for reducing the capital of any company shall come into operation until an order of the court is registered by the registrar as is hereinafter mentioned.

be the same as it was in the case of the existing share or shares from which the share of reduced amount is derived. 1901, c. 20, s. 70.

Statement of shares to accord with special resolution

**71.** The statement of the number and amount of the shares into which the capital of the company is divided contained in every copy of the memorandum of association or any other official document issued after the passing of any special resolution shall be in accordance with such special resolution; and any company which makes default in complying with the provisions of this section shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director, manager, secretary and officer of the company who knowingly or wilfully authorises or permits any such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 71.

### *Share Warrants.*

Warrant of limited shares fully paid up or of stock may be issued to bearer

**72.** In the case of a company limited by shares the company, if authorised to do so by its regulations as originally framed or as altered by special resolution and subject to the provisions of such regulations may with respect to any share which is fully paid up or with respect to stock issue under its common seal a warrant stating that the bearer of the warrant is entitled to the share or shares of stock therein specified; and may provide by coupons or otherwise for the payment of the future dividends on the share or shares or stock included in such warrant hereinafter referred to as a share warrant. 1901, c. 20, s. 72.

Effects of and mode of transfer of share warrant

**73.** A share warrant shall entitle the bearer of such warrant to the shares or stock specified in it; and such shares or stock may be transferred by the delivery of the share warrant. 1901, c. 20, s. 73.

Registration of bearer of share warrant Surrender of warrant

**74.** The bearer of a share warrant shall subject to the regulations of the company be entitled on surrendering such warrant for cancellation to have his name entered as a member in the register of members; and the company shall be responsible for any loss incurred by any person by reason of the company entering in its register of members the name of any bearer of a share warrant in respect of the shares or stock specified therein without the share warrant being surrendered and cancelled. 1901, c. 20, s. 74.

Rights of bearer of share warrant as member of company

**75.** The bearer of a share warrant may if the regulations of the company so provide be deemed to be a member of the company within the meaning of this Ordinance either to the full extent or for such purposes as may be prescribed by the regulations:

Provided that the bearer of a share warrant shall not be qualified in respect of the shares or stock specified in such warrant for being a director or manager of the company in cases where such a qualification is prescribed by the regulations of the company. 1901, c. 20, s. 75.

Entries in register in case of share warrant

**76.** On the issue of a share warrant in respect of any share or stock the company shall strike out of its register of members the name of the member then entered therein as holding such share or stock as if he had ceased to be a member; and shall enter in the register the following particulars:

(*a*) The fact of the issue of the warrant;

(*b*) A statement of the shares or stock included in the warrant distinguishing each share by its number;

(*c*) The date of the issue of the warrant;

and until the warrant is surrendered the above particulars shall be deemed to be the particulars which are required by the twenty-seventh section of this Ordinance to be entered in the register of members of a company; and on the surrender of a warrant the date of such surrender shall be entered as if it were the date at which a person ceased to be a member. 1901, c. 20, s. 76.

Particulars of share warrant in annual summary

**77.** After the issue by the company of a share warrant the annual summary required by the thirty-first section of this Ordinance shall contain the following particulars:

(*a*) The total amount of shares or stock for which share warrants are outstanding at the date of the summary;

(*b*) The total amount of share warrants which have been issued and surrendered respectively since the last summary was made; and

(*c*) The number of shares or amount of stock comprised in each warrant. 1901, c. 20, s. 77.

### *Reduction of Capital and Shares.*

Power to reduce capital

**78.** Any company limited by shares may by special resolution so far modify the conditions contained in its memorandum of association if authorised to do so by its regulations as originally framed or as altered by special resolution as to reduce its capital; but no such resolution for reducing the capital of any company shall come into operation until an order of the court is registered by the registrar as is hereinafter mentioned.

(2) The power to reduce capital conferred by this section shall include paid up capital; and a power to cancel any lost capital or any capital unrepresented by available assets or to pay off any capital which may be in excess of the wants of the company; and paid up capital may be reduced either with or without extinguishing or reducing the liability if any remaining on the shares of the company; and to the extent to which such liability is not extinguished or reduced it shall be deemed to be preserved. 1901, c. 20, s. 78.

**After such reduction "and reduced" added to name**

**79.** Every company shall after the date of the passing of any special resolution for reducing its capital add to its name until such date as the court may fix the words "and reduced" as the last words in its name; and those words shall until such date be deemed to be part of the name of the company. 1901, c. 20, s. 79.

**Company to apply for order confirming reduction**

**80.** A company which has passed a special resolution for reducing its capital may apply to the court by petition for an order confirming the reduction; and on the hearing of the petition the court if satisfied that with respect to every creditor of the company who under the provisions of this Ordinance is entitled to object to the reduction either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined or has been secured as hereinafter provided may make an order confirming the reduction on such terms and subject to such conditions as may seem fit.

(2) Where the reduction of the capital of a company does not involve either the diminution of any liability in respect of unpaid capital or the payment to any shareholder of any paid up capital:

(*a*) The creditors of the company shall not unless the court otherwise direct be entitled to object or required to consent to the reduction; and

(*b*) It shall not be necessary before the presentation of the petition for confirming the reduction to add and the court may if it thinks it expedient so to do dispense altogether with the addition of the words "and reduced."

(3) In any case that the court thinks fit so to do it may require the company to publish in such manner as the court may direct the reasons for the reduction of its capital or such other information in regard to the reduction of its capital as the court may think expedient with a view to giving proper

information to the public in relation to the reduction of its capital by a company and if the court thinks fit the causes which led to such reduction. 1901, c. 20, s. 80.

**Right of creditors to object to reduction**

**81.** Where a company proposes to reduce its capital every creditor of the company who at the date fixed by the court is entitled to any debt or claim which if that date were the commencement of the winding up of the company would be admissible in proof against the company shall be entitled to object to the proposed reduction and to be entered in the list of creditors who are so entitled to object.

(2) The court shall settle a list of such creditors; and for that purpose shall ascertain as far as possible without requiring an application from any creditor the names of such creditors and the nature and amount of their debts or claims; and may publish notices fixing a certain day or days within which creditors of the company who are not entered on the list are to claim to be so entered or to be excluded from the right of objecting to the proposed reduction. 1901, c. 20, s. 81.

**Court may dispense with consent of creditors on security given**

**82.** Where a creditor whose name is entered on the list of creditors and whose debt or claim is not discharged or determined does not consent to the proposed reduction the court may if it thinks fit dispense with such consent on the company securing the payment of the debt or claim of such creditor by setting apart and appropriating in such manner as the court may direct a sum of such amount as is hereinafter mentioned that is to say:

1. If the full amount of the debt or claim of the creditor is admitted by the company or though not admitted is such as the company is willing to set apart and appropriate then the full amount of the debt or claim shall be set apart and appropriated;

2. If the full amount of the debt or claim is not admitted by the company and is not such as the company is willing to set apart and appropriate or if the amount is contingent or not ascertained then the court may if it thinks fit inquire into and adjudicate upon the validity of such debt or claim and the amount for which the company may be liable in respect thereof in the same manner as if the company were being wound up by the court; and the amount fixed by the court on such inquiry and adjudication shall be set apart and appropriated. 1901, c. 20, s. 82.

Order and minute to be registered

**83.** The registrar upon the production to him of an order of the court confirming the reduction of the capital of a company and the delivery to him of a copy of the order and of a minute approved by the court showing with respect to the capital of the company as altered by the order, the amount of such capital, the number of shares into which it is to be divided, the amount of each share and the amount if any at the date of the registration of the minute proposed to be deemed to have been paid up on each share shall register the order and minute; and on the registration the special resolution confirmed by the order so registered shall take effect.

(2) Notice of such registration shall be published in such manner as the court may direct.

(3) The registrar shall certify under his hand the registration of the order and minute; and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the reduction of capital have been complied with and that the capital of the company is as stated in the minute. 1901, c. 20, s. 82.

Minute to form part of memorandum of association

**84.** The minute when registered shall be deemed to be substituted for the corresponding part in the memorandum of association of the company; and shall be of the same validity and subject to the same alterations as if it had been originally contained in the memorandum of association; and subject as in this Ordinance mentioned no member of the company whether past or present shall be liable in respect of any share to any call or contribution exceeding in amount the difference if any between the amount which has been paid on such share and the amount of the share as fixed by the minute. 1901, c. 20, s. 84.

Saving right of creditors ignorant of proceedings

**85.** If any creditor who is entitled in respect of any debt or claim to object to the reduction of the capital of a company under this Ordinance is in consequence of his ignorance of the proceedings taken with a view to such reduction or of their nature and effect with respect to his claim not entered on the list of creditors and after such reduction the company is unable within the space of three weeks after demand made to pay to the creditor the amount of such debt or claim every person who was a member of the company at the date of the registration of the order and minute relating to the reduction of the capital of the company shall be liable to contribute to the payment of such debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day prior to such reduction; and on the company being wound up the court on the application of such creditor and on proof that he was ignorant of the proceedings taken with a view to the reduction of their nature and effect with respect to his claim may if it thinks fit settle a list of such contributions accordingly and make and enforce calls and orders on the contributories settled on such list in the same manner in all respects as if they were ordinary contributories in a winding up; but the provisions of this section shall not affect the rights of the contributories of the company among themselves. 1901, c. 20, s. 85.

**Registered minute to be embodied in memorandum of association**

**86.** A minute when registered shall be embodied in every copy of the memorandum of association issued after its registration; and if any company makes default in complying with the provisions of this section it shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 86.

**Concealing name of creditor entitled to object**

**87.** If any director, manager or officer of a company wilfully conceals the name of any creditor of the company who is entitled to object to the proposed reduction or wilfully misrepresents the nature or amount of the debt or claim of any creditor of the company or if any director or manager of the company aids or abets in or is privy to any such concealment or misrepresentation as aforesaid every such director, manager, or officer shall for every such offence upon summary conviction be liable to a penalty not exceeding $500. 1901, c. 20, s. 87.

**Reduction by cancelling of unused shares**

**88.** Any company limited by shares may so far modify the conditions contained in its memorandum of association if authorised so to do by its regulations as originally framed or as altered by special resolution as to reduce its capital by cancelling any shares which at the date of the passing of such resolution have not been taken or agreed to be taken by any person; and the provisions of the ten next preceding sections of this Ordinance shall not apply to any reduction of capital made in pursuance of this section. 1901, c. 20, s. 88.

### *Alteration of Objects Mentioned in Memorandum of Association.*

**Alteration of memorandum of association or constitution**

**89.** Subject to the provisions of this Ordinance any company registered under this Ordinance may by special resolution alter the provisions of its memorandum of association so far as may be required for any of the purposes hereinafter specified; but in no case shall any such alteration take effect until confirmed on petition by the court.

(2) Before confirming any such alteration the court must be satisfied:

(*a*) That sufficient notice has been given to every holder of debentures or debenture stock of the company and any person or class of persons whose interests will in the opinion of the court be affected by the alteration; and

(*b*) That with respect to every creditor who in the opinion of the court is entitled to object and who signifies his objection in manner directed by the court either his consent to the alteration has been obtained or his debt or claim has been discharged or determined or has been secured to the satisfaction of the court:

Provided that the court may in the case of any person or class of persons for special purposes dispense with the notice required by this section.

(3) An order confirming any such alteration may be on such terms and subject to such conditions as to the court seems fit; and the court may make such orders as to costs as it deems proper.

(4) The court shall in exercising its discretion under the provisions of this section have regard to the rights and interests of the members of the company or of any class of those members as well as to the rights and interests of the creditors; and may if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interest of dissentient members; and the court may give such directions and make such orders as it may think expedient for the purpose of facilitating any such arrangement or carrying the same into effect:

Provided always that it shall not be lawful to expend any part of the capital of the company in any such purchase.

**Grounds of confirmation**

(5) The court may confirm either wholly or in part any such alteration as aforesaid with respect to the objects of the company if it appears that the alteration is required in order to enable the company:

(*a*) To carry on its business more economically or more efficiently; or (*b*) To attain its main purpose by new or improved means; or

(*c*) To enlarge or change the local area of its operations: or

(*d*) To carry on some business which under existing circumstances may conveniently or advantageously be combined with the business of the company; or

(*e*) To restrict or abandon any of the objects specified in the memorandum of association. 1901, c. 20, s. 89.

**Registration of altered memorandum of association**

**90.** Where a company has altered the provisions of its memorandum of association with respect to the objects of the company and such alteration has been confirmed by the court an office copy of the order confirming such alteration together with a copy of the memorandum of association so altered shall be delivered by the company to the registrar within fifteen days from the date of the order; and the registrar shall register the same; and shall certify under his hand the registration thereof; and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to such alteration and confirmation thereof have been complied with; and thenceforth but subject to the provisions of this Ordinance the memorandum so altered shall be the memorandum of association of the company.

**Penalty**

(2) If the company makes default in delivering to the registrar any document required by this section to be delivered to him the company shall upon summary conviction be liable to a penalty not exceeding $50 for every day during which it is in default; and every director, manager, secretary and officer of the company who shall knowingly and wilfully authorise or permit such default shall upon sumamry conviction be liable to the like penalty. 1901, c. 20, s. 90.

### *Increase of Capital.*

**Power of certain companies to alter memorandum of association**

**91.** Any company limited by shares may so far modify the conditions contained in its memorandum of association if authorised to do so by its regulations as originally framed or altered by special resolution in manner hereinafter mentioned as to increase its capital by the issue of new shares of such amount as it thinks expedient or to consolidate and divide its capital into shares of larger amount than its existing shares or to convert its existing shares into stock but save as aforesaid and save as to the location of the registered office of the company and as herein provided no alteration shall be made by the company in the conditions contained in its memorandum of association. 1901, c. 20, s. 91.

*Change of Name.*

Proceedings for change of name

**92.** When a company is desirous of changing its name the registrar upon being satisfied that the company is in a solvent condition, that the change is not otherwise objectionable, that the change has been sanctioned by a special resolution of the company and that the notice hereinafter provided has been duly given may change the name of the company to some other name.

(2) The company shall give at least one month's previous notice in the gazette and in some newspaper published or circulated in the locality in which the operations of the company are carried on of the intention to apply for the change of name and shall state the name proposed to be adopted.

(3) Such change of name shall be conclusively established by the insertion in the gazette of a notice thereof by the registrar. 1901, c. 20, s. 92.

Effect of such change of name

**93.** No contract or engagement entered into by or with the company and no liability incurred by it shall be affected by the change of name; and all suits commenced by or against the company prior to the change of name may be proceeded with against or by the company under its former name. 1901, c. 20, s. 93.

Limited company may by special resolution make liability of directors unlimited

**94.** Any limited company may by a special resolution if authorised so to do by its regulations as originally framed or as altered by special resolution from time to time modify the conditions contained in its memorandum of association so far as to render unlimited the liability of its directors or managers or of the managing director; and such special resolution shall be of the same validity as if it had been originally contained in the memorandum of association; and a copy thereof shall be embodied in or annexed to every copy of the memorandum of association which is issued after the passing of the resolution; any default in this respect shall be deemed to be a default in complying with the provisions of the one hundred and twenty-fourth section of this Ordinance and shall be punished accordingly. 1901, c. 20, s. 94.

*Contracts.*

**95.** Contracts on behalf of any company incorporated under this Ordinance may be made as follows, that is to say: **Contracts how made**

(*a*) Any contract which if made between private persons would be by law required to be in writing and if made according to the law of the Territories or of the Dominion of Canada to be under seal may be made on behalf of the company in writing under the common seal of the company; and such contract may be in the same manner varied or discharged; **Specialty**

(*b*) Any contract which if made between private persons would be by law required to be in writing and signed by the parties to be charged therewith may be made on behalf of the company in writing signed by any person acting under the express or implied authority of the company; and such contract may in the same manner be varied or discharged; **Simple contracts required by law to be in writing**

(*c*) Any contract which if made between private persons would by law be valid although made by parol only and not reduced into writing may be made by parol on behalf of the company by any person acting under the express or implied authority of the company; and such contract may in the same manner be varied or discharged; and all contracts made according to the provisions herein contained shall be effectual in law; and shall be binding upon the company and their successors and all other parties thereto, their heirs, executors or administrators as the case may be. 1901, c. 20, s. 95. **Contracts by parol**

**96.** A promissory note or bill of exchange shall be deemed to have been made, accepted or indorsed on behalf of any company under this Ordinance if made, accepted or indorsed in the name of the company by any person acting under the authority of the company or if made, accepted or indorsed by or on behalf or on account of the company by any person acting under the authority of the company. 1901, c. 20, s. 96. **Promissory notes and bills of exchange**

**97.** Subject to the provisions of section 95 every contract, agreement, engagement or bargain made and every bill of exchange drawn, accepted or indorsed and every promissory note and cheque made, drawn or indorsed on behalf of the company by any agent, officer or servant of the company in general accordance with his powers as such under the regula- **Contracts generally when made by company, etc.**

tions of the company shall be binding upon the company; and in no case shall it be necessary to have the seal of the company affixed to any such contract, agreement, engagement, bargain, bill of exchange, promissory note or cheque or to prove that the same was made, drawn, accepted or indorsed as the case may be in pursuance of any regulations or special resolution or order; nor shall the party so acting as agent, officer or servant of the company be thereby subjected individually to any liability whatsoever to any third party therefor. 1901, c. 20, s. 97.

*Borrowing Powers.*

Power to borrow money and to secure repayment

**98.** All companies under this Ordinance shall have power subject to the conditions of and in addition to all other powers conferred by this Ordinance to borrow money for the purpose of carrying out the objects of their respective incorporations; and to hypothecate, pledge or mortgage their real and personal property; to issue debentures secured by mortgages or otherwise; to sign bills, notes, contracts and other evidences of or securities for money borrowed or to be borrowed by them for the purposes aforesaid; and to pledge debentures as security for temporary loans.

(2) These powers shall not be exercised except with the sanction of a special resolution of the company previously given in general meeting. 1901, c. 20, s. 98.

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*Provisions for Protection of Creditors.*

Registered office of company

**99.** Every company under this Ordinance shall have a registered office within the Territories to which all communications may be addressed.

(2) If any company under this Ordinance carries on business without having such an office it shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which business is so carried on. 1901, c. 20, s. 99.

Notice of situation of

**100.** Notice of the situation of such registered office and of any change therein shall be given to the registrar and recorded by him; and until such notice is given the company shall not be deemed to have complied with the provisions of this Ordinance with respect to having a registered office. 1901, c. 20, s. 100.

Publication of name by a limited company

**101.** Every limited company under this Ordinance whether limited by shares or by guarantee shall paint or affix and shall keep painted or affixed its name on the outside of every office or place in which the business of the company is carried on in a conspicuous position in letters easily legible; and shall have its name engraven in legible characters on its seal; and shall have its name mentioned in legible characters in all notices, advertisements and other official publications of such company and in all bills of exchange, promissory notes, indorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such company; and in all bills of parcels, invoices, receipts and letters of credit of the company. 1901, c. 20, s. 101.

**Penalties for nonpublication of name, etc.**

**102.** If any limited company under this Ordinance does not paint or affix and keep painted or affixed its name in manner directed by this Ordinance it shall upon summary conviction be liable to a penalty not exceeding $25 for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed; and every director and manager of the company who shall knowingly and wilfully authorise and permit such default shall upon summary conviction be liable to the like penalty; and if any director, manager or officer of such company or any person on its behalf uses or authorises the use of any seal purporting to be the seal of the company whereon its name is not so engraven as aforesaid or issues or authorises the issue of any notice, advertisement or other official publication of such company or signs or authorises to be signed on behalf of such company any bill of exchange, promissory note, indorsement, cheque or order for money or goods or issues or authorises to be issued any bill of parcels, invoice, receipt or letter of credit of the company whereby its name is not mentioned in manner aforesaid he shall upon summary conviction be liable to a penalty of $250 and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof unless the same is duly paid by the company. 1901, c. 20, s. 102.

**Register of mortgages**

**103.** Every company under this Ordinance shall keep a register of all mortgages and charges specifically affecting property of the company; and shall enter in such register in respect of each mortgage or charge a short description of the property mortgaged or charged, the amount of charge created and the names of the mortgagees or persons entitled to such charge; and if any property of the company is mortgaged without such entry as aforesaid being made every director, manager or officer of the company who knowingly and wilfully authorises or permits the omission of such entry shall upon summary conviction be liable to a penalty not exceeding $250.

(2) The register of mortgages required by this section shall be open to inspection by any creditor or member of the company at all reasonable times; and if such inspection is refused any officer of the company refusing the same and every director and manager of the company authorisng or knowingly and wilfully permitting such refusal shall upon summary conviction be liable to a penalty not exceeding $25 and a further penalty of $10 for every day during which such refusal continues; and in addition to the above penalty any judge of the supreme court sitting in chambers may by summary order compel an immediate inspection of the register. 1901, c. 20, s. 103.

Register of directors, etc.

**104.** Every company under this Ordinance shall keep at its registered office a register containing the names and addresses and the occupation of its directors or managers; and shall send to the registrar a copy of such register; and shall from time to time notify the registrar of any change that takes place in such directors or managers. 1901, c. 20, s. 104.

Penalty on company not keeping register

**105.** If any company under this Ordinance makes default in keeping a register of its directors or managers or in sending a copy of such register to the registrar in compliance with the foregoing rules or in notifying to the registrar any change that takes place in such directors or managers such delinquent company shall upon summary conviction be liable to a penalty not exceeding $25 for every day during which such default continues; and every director and manager of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 105.

Prohibits carrying on business with less than three members

**106.** If any company under this Ordinance carries on business when the number of its members is less than three for a period of six months after the number has been so reduced every person who is a member of such company during the time that it so carries on business after such period of six months and is cognizant of the fact that it is so carrying on business with fewer than three members shall be severally liable for the payment of the whole of the debts of the company contracted during such time and may be sued for the same without the joinder in the action of suit of any other member. 1901, c. 20, s. 106.

**107.** A company shall not commence any business or exercise any borrowing powers unless:

Restrictions on commencement of business

(*a*) Shares held subject to the payment of the whole amount thereof in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(*b*) Every director of the company has paid to the company on each of the shares taken or contracted to be taken by him and for which he is liable to pay in cash a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription; and

(*c*) There has been filed with the registrar a statutory declaration by the secretary or one of the directors in the prescribed form that the aforesaid conditions have been complied with.

(2) The registrar shall on the filing of this statutory declaration certify that the company is entitled to commence business; and that certificate shall be conclusive evidence that the company is so entitled.

(3) Any contract made by a company before the date at which it is entitled to commence business shall be provisional only; and shall not be binding on the company until that date; and on that date it shall become binding.

(4) Nothing in this section shall prevent the simultaneous offer for subscription of any shares and debentures or the receipt of any application.

(5) If any company commences business or exercises borrowing powers in contravention of this section every person who is responsible for the contravention shall without prejudice to any other liability be liable to a fine not exceeding $200 for every day during which the contravention continues.

(6) This section shall not apply to any company where there is no invitation to the public to subscribe for its shares. 1901, c. 20, s. 107.

**108.** No allotment shall be made of any share capital of a company offered to the public for subscription unless the following conditions have been complied with, namely:

Restrictions as to allotment

(*a*) The amount if any fixed by the memorandum or articles of association and named in the prospectus as a minimum subscription upon which the directors may proceed to allotment; or (*b*) If no amount is so fixed and named, then the whole amount of the share capital so offered for subscription has been subscribed and the sum payable on application for the amount so fixed and named or for the whole amount offered for subscription has been paid to and received by the company.

(2) The amount so fixed and named and the whole amount aforesaid shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Ordinance referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than five per centum of the nominal amount of the share.

(4) If the conditions aforesaid have not been complied with on the expiration of forty days after the first issue of the prospectus all money received from applicants for shares shall be forthwith repaid to the applicants without interest; and if any such money is not repaid within forty-eight days after the issue of the prospectus the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of five per centum per annum from the expiration of the forty-eight days:

Provided that a director shall not be liable if he proves that the loss of the money was not due to any misconduct or negligence on his part.

(5) Any condition requiring or binding an applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section except subsection (3) thereof shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription. 1901, c. 20, s. 108.

**Effect of irregular allotment**

**109.** An allotment made by a company to an applicant in contravention of the foregoing provisions of this Ordinance shall be voidable at the instance of the applicant within one month after the holding of the statutory meeting of the company and not later; and shall be voidable, notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes or permits or authorises the contravention of any of the foregoing provisions of this Ordinance with respect to allotments he shall be liable to compensate the company and the allottee respectively for any loss, damage or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover such loss, damage or costs shall not be commenced after the expiration of two years from the date of the allotment. 1901, c. 20, s. 109.

**110.** Whenever a company limited by shares makes any allotment of its shares the company shall within one month thereafter file with the registrar: **Returns as to allotments**

(*a*) A return of the allotments stating the number and nominal amount of the shares comprised in the allotment; the names, addresses and descriptions of the allottees; and the amounts if any paid or due and payable on each share; and

(*b*) In the case of shares alloted in whole or in part for a consideration other than cash a contract in writing constituting the title of the allottee to such allotment together with any contract of sale or for services or other consideration in respect of which such allotment was made; and a return stating the number and nominal amount of shares so allotted, and the extent to which they are to be treated as paid up and the consideration for which they have been allotted.

(2) If default is made in complying with the requirements of this section every director, manager, secretary or other officer of the company who is knowingly a party to the default shall be liable to a fine not exceeding $250 for every day during which default continues. 1901, c. 20, s. 110.

**111.** Upon any offer of shares to the public for subscription it shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares in the company or procuring or agreeing to procure subscriptions whether absolute or conditional for any shares in the company if the payment of the commission and the amount or rate per centum of the commission paid or agreed to be paid are respectively authorised by the articles of association and disclosed in the prospectus and the commission paid or agreed to be paid does not exceed the amount or rate so authorised. **Commissions, discounts, etc.**

(2) Save as aforesaid no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance to any person on consideration of his subscribing or agreeing to subscribe whether absolutely or conditionally for any shares in the company or procuring or agreeing to procure subscriptions whether absolute or conditional for any shares in the com-

pany whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company or the money to be paid out of the nominal purchase money or contract price or otherwise.

(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay. 1901, c. 20, s. 111.

*Notices, etc.*

**Corporate name and proof of memorandum, etc., in actions and proceedings**

**112.** In any action or proceeding it shall not be necessary to set forth the mode of incorporation of the company otherwise than by mention of it under its corporate name as incorporated or reincorporated under this Ordinance; and the memorandum and articles of association of the company or any exemplification or copy thereof certified under the hand and seal of the registrar or any copy of the gazette containing such memorandum and articles of association shall be conclusive proof of every matter and thing therein set forth. 1901, c. 20, s. 112.

**Certified copy of resolution prima facie evidence**

**113.** A copy of any resolution of a company under its seal and purporting to be signed by any officer of the company shall be *prima facie* evidence of such resolution. 1901, c. 20, s. 113.

**Service on company**

**114.** Any summons, notice, order or other process or document requiring to be served upon the company may in addition to any other method of service from time to time provided by any Ordinance or rule of court in that behalf be served by leaving the same at the registered office of the company with any adult person in the employ of the company or by leaving it with the president or secretary of the company or by leaving the same at the domicile of either of them or with any adult person of his family or in his employ or by sending it in a prepaid letter addressed to the company at its registered office or if the company has no registered office or has no known president or secretary the court may order such publication as it deems requisite to be made in the premises and such publication shall be held to be due service upon the company. 1901, c. 20, s. 114.

**Rules as to notices by letter**

**115.** Any document to be served by post on the company shall be posted in such time as to admit of its being delivered in the due course of delivery within the period if any prescribed for the service thereof; and in proving service of such document it shall be sufficient to prove that such document was properly directed and that it was put as a prepaid letter into the post office. 1901, c. 20, s. 115.

**116.** Any summons, notice, order or proceeding requiring authentication by the company may be signed by any director, secretary or other authorised officer of the company and need not be under the common seal of the company; and the same may be in writing or in print or partly in writing and partly in print. 1901, c. 20, s. 116.

**Authentication of notices by company**

### *Statutory Meeting.*

**117.** Every company limited by shares shall within a period of six months from the date at which the company is entitled to commence business hold a general meeting of the members of the company which shall be called the statutory meeting.

**First statutory meeting of company**

(2) The directors shall at least seven days before the day on which the meeting is held forward to every member of the company a report certified by not less than two directors of the company or where there are less than two directors by the sole director and manager stating:

(*a*) The total number of shares allotted distinguishing shares allotted as fully or partly paid up otherwise than in cash; and stating in the case of shares partly paid up the extent to which they are so paid up; and in either case the consideration for which they have been allotted;

(*b*) The total amount of cash received by the company in respect of such shares distinguished as aforesaid;

(*c*) An abstract of the receipts and payments of the company on capital account to the date of the report; and an account or estimate of the preliminary expenses of the company;

(*d*) The names, addresses and descriptions of the directors, auditors if any, manager if any and secretary of the company; and

(*e*) The particulars of any contract the modification of which is to be submitted to the meeting for its approval; together with the particulars of the modification or proposed modification.

(3) The report shall so far as it relates to the shares allotted by the company and to the cash received in respect to such

shares and to the receipts and payment of the company on capital account be certified as correct by the auditors if any of the company.

(4) The directors shall cause a copy of the report certified as by this section required to be filed with the registrar forthwith after the sending thereof to the members of the company.

(5) The directors shall cause a list showing the names, descriptions and addresses of the members of the company and the number of shares held by them respectively to be produced at the commencement of the meeting and to remain open and accessible to any member of the company during the continuance of the meeting.

(6) The members of the company present at the meeting shall be at liberty to discuss any matter relating to the formation of the company or arising out of the report whether previous notice has been given or not; but no resolution of which notice has not been given in accordance with the articles of association may be passed.

(7) The meeting may adjourn from time to time; and at any such adjourned meeting any resolution of which notice has been given in accordance with the articles of association either before or subsequently to the former meeting may be passed; and the adjourned meeting shall have the same powers as an original meeting.

(8) If default is made in filing such report as aforesaid or in holding the statutory meeting then at the expiration of fourteen days after the last day on which the meeting ought to have been held any shareholder may petition the court for the winding up of the company; and upon the hearing of the petition the court may either direct that the company be wound up or give directions for the report being filed or a meeting being held or make such other order as may be just; and may order that the costs of the petition be paid by any persons who in the opinion of the court are responsible for the default. 1901, c. 20, s. 117.

**General meetings**

**118.** A general meeting of every company under this Ordinance shall be held once at least in every year.

(2) Notwithstanding anything in the regulations of a company the directors shall on the requisition of the holders of not less than one-tenth of the issued capital of the company upon which all calls and other sums then due have been paid forthwith proceed to convene an extraordinary meeting of the company.

(3) The requisition must state the objects of the meeting and must be signed by the requisitionists and deposited at the office of the company; and may consist of several documents in like form each signed by one or more requisitionists.

(4) If the directors of the company do not proceed to cause a meeting to be held within twenty-one days from the date of the requisition being so deposited the requisitionists or a majority of them in value may themselves convene the meeting; but any meeting so convened shall not be held after three months from the date of such deposit.

(5) If at any such meeting a resolution requiring confirmation at another meeting is passed the directors shall forthwith convene a further extraordinary general meeting for the purpose of considering the resolution and if thought fit of confirming it as a special resolution; and if the directors do not convene the meeting within seven days from the date of the passing of the first resolution the requisitionists or a majority of them in value may themselves convene the meeting.

(6) Any meeting convened under this section by the requisitionists shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by directors. 1901, c. 20, s. 118.

**Alteration of regulations by special resolution**

**119.** Subject to the provisions of this Ordinance and to the conditions contained in the memorandum of association any company formed under this Ordinance may in general meeting from time to time by passing a special resolution in manner hereinafter mentioned alter all or any of the regulations of the company contained in the articles of association or in the table marked A in the first schedule where such table is applicable to the company or make new regulations to the exclusion of or in addition to all or any of the regulations of the company; and any regulations so made by special resolution shall be deemed to be regulations of the company of the same validity as if they had been originally contained in the articles of association; and shall be subject in like manner to be altered or modified by any subsequent special resolution. 1901, c. 20, s. 119.

**Special resolutions**

**120.** A resolution passed by a company under this Ordinance shall be deemed to be special whenever a resolution has been passed by a majority of not less than three-fourths of such members of the company for the time being entitled according to the regulations of the company to vote as may be present in person or by proxy in cases where by the regulations of the company proxies are allowed at any general meeting of which notice specifying the intention to propose such resolution has been duly given; and such resolution has been confirmed by a majority of such members for the time being entitled according to the regulations of the company to vote as may be present in person or by proxy at a subsequent general meeting of which notice has been duly given and held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which such resolution was first passed.

(2) At any meeting mentioned in this section unless a poll is demanded by at least five members a declaration of the chairman that the resolution has been carried shall be deemed conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the same.

(3) Notice of any meeting shall for the purposes of this section be deemed to be duly given and the meeting to be duly held whenever such notice is given and meeting held in manner prescribed by the regulations of the company.

(4) In computing the majority under this section when a poll is demanded reference shall be had to the number of votes to which each member is entitled by the regulations of the company. 1901, c. 20, s. 120.

Provisions where no regulations as to voting

**121.** In default of any regulations as to voting every member shall have one vote; and in default of any regulations as to summoning general meetings a meeting shall be held to be duly summoned of which seven days' notice in writing has been served on every member in manner in which notices are required to be served by the table marked A in the first schedule hereto; and in default of any regulations as to the person to summon meetings five members shall be competent to summon the same; and in default of any regulations as to who is to be chairman of such meeting it shall be competent for any person elected by the members present to preside. 1901, c. 20, s. 121.

Registration of special resolution

**122.** A copy of any special resolution that is passed by any company under this Ordinance shall be forwarded to the registrar and be recorded by him.

(2) If such copy is not forwarded within fifteen days from the date of the confirmation of the resolution the company shall upon summary conviction be liable to a penalty not exceeding $10 for every day after the expiration of such fifteen days during which such copy is omitted to be forwarded; and every director, manager and officer of the com-

pany who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 122.

**Special resolutions to be embodied in articles of association, or supplied to members**

**123.** Where articles of association have been registered a copy of every special resolution for the time being in force shall be annexed to or embodied in every copy of the articles of association that may be issued after the passing of such resolution and where no articles of association have been registered a copy of any special resolution shall be forwarded to any member requesting the same on payment of twenty-five cents or such less sum as the company may direct.

(2) If any company makes default in complying with the provisions of this section it shall upon summary conviction be liable to a penalty not exceeding $5 for each copy in respect of which such default is made; and every director and manager of the company who shall knowingly and wilfully authorise or permit such default shall upon summary conviction be liable to the like penalty. 1901, c. 20, s. 123.

**Power of attorney by company**

**124.** Any company under this Ordinance may by instrument in writing under its common seal empower any person either generally or in respect of any specified matters as its attorney to execute deeds on its behalf in any place situate within or without the limits of the Territories; and every deed signed by such attorney on behalf of the company and under his seal shall be binding on the company and have the same effect as if it were under the common seal of the company. 1901, c. 20, s. 124.

### *Inspectors.*

**Inspectors appointed by Lieutenant Governor in Council on application**

**125.** The Lieutenant Governor in Council may appoint one or more competent inspectors to examine into the affairs of any company under this Ordinance and to report thereon in such manner as the Lieutenant Governor in Council may direct upon the applications following, that is to say:

(*a*) In the case of any company that has a capital divided into shares upon the application of members holding not less than one-fifth of the whole shares of the company for the time being issued;

(*b*) In the case of any company not having a capital divided into shares upon the application of members being in number no less than one-fifth of the whole number of persons for the time being entered on the register of the company as members. 1901, c. 20, s. 125.

On what application to be based

**126.** The application shall be supported by such evidence as the Lieutenant Governor in Council may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made and that they are not actuated by malicious motives in instituting the same; the Lieutenant Governor in Council may also require applicants to give security for payment of the costs of the enquiry before appointing any inspector or inspectors. 1901, c. 20, s. 126.

Officers, etc., to produce books, etc., for inspection

**127.** It shall be the duty of all officers and agents of the company to produce for the examination of the inspectors all books and documents in their custody or power; and any inspector may examine upon oath the officers and agents of the company in relation to its business and may administer such oath accordingly.

(2) If any officer or agent refuses to produce any book or document hereby directed to be produced or to answer any question relating to the affairs of the company he shall upon summary conviction be liable to a penalty not exceeding $25 in respect of each offence. 1901, c. 20, s. 127.

Report

**128.** Upon the conclusion of the examination the inspectors shall report the result of the same to the Lieutenant Governor in Council; and a copy of such report shall be forwarded by the Territorial secretary to the registered office of the company; and a further copy shall at the request of the members upon whose application inspection is made be delivered to them or to any one or more of them.

Expenses

(2) All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed unless the Lieutenant Governor in Council shall direct the same to be paid out of the assets of the company which he is hereby authorised to do. 1901, c. 20, s. 128.

Inspectors appointed by special resolution

**129.** Any company under this Ordinance may by special resolution appoint inspectors for the purpose of examining into the affairs of the company; and the inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Lieutenant Governor in Council with this exception that instead of making their report to the Lieutenant Governor in Council they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors or to answer any question as they would have incurred if such inspector had been appointed by the Lieutenant Governor in Council. 1901, c. 20, s. 129.

Proof of admissibility of report in legal proceedings

**130.** A copy of the report of any inspectors appointed under this Ordinance authenticated by the seal of the company into whose affairs they have made the inspection shall be admissible in any legal proceedings as evidence of the opinion of the inspectors in relation to any matter contained in such report. 1901, c. 20, s. 130.

*Audit.*

Appointment of auditors

**131.** Every company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) If an appointment is not made at an annual general meeting the registrar may on the application of any member of the company appoint an auditor of the company for the current year and fix the remuneration to be paid to him by the company for his services.

(3.) A director or officer of the company shall not be capable of being appointed auditor of the company.

(4) The first auditors of the company may be appointed by the directors before the statutory meeting; and if so appointed shall hold office until the first annual general meeting unless previously removed by a resolution of the shareholders in general meeting in which case the shareholders at such meeting may appoint auditors.

(5) The directors of the company may fill any casual vacancy in the office of auditor; but while any such vacancy continues the surviving or continuing auditor or auditors if any may act. 1901, c. 20, s. 131.

Remuneration of auditors

**132.** Subject to the provisions of the next preceding section the remuneration of the auditors of a company shall be fixed by the company in general meeting; except that the remuneration of any auditors appointed before the statutory meeting or to fill any casual vacancy may be fixed by the directors. 1901. c. 20, s. 132.

Rights and duties of auditors

**133.** Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company and shall be entitled to require from the directors and officers of the company such information and explanation as may be necessary for the performance of the duties of the auditors; and the auditors shall sign a certificate at the foot of the balance sheet stating whether or not all their requirements as auditors have been complied with; and shall make a report to the shareholders on the accounts examined by them and on every balance sheet laid before the company in general meeting during their tenure of office; and in every such report shall state whether in their opinion the balance sheet referred to in their report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs as shown by the books of the company; and such report shall be read before the company in general meeting. 1901, c. 20, s. 133.

### *Legal Proceedings.*

**Evidence of proceedings at meetings**

**134.** Every company under this Ordinance shall cause minutes of all resolutions and proceedings of general meetings of the company and of the directors and managers of the company in cases where there are directors or managers to be duly entered in the books to be from time to time provided for the purpose; and any such minute as aforesaid if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings had or by the chairman of the next succeeding meeting shall be received as evidence in all legal proceedings; and until the contrary is proved every general meeting of the company or meeting of directors or managers in respect of proceedings of which minutes have been so made shall be deemed to have been duly held and convened and all resolutions passed thereat or proceedings had to have been duly passed and had and all appointments of directors, managers or liquidators shall be deemed to be valid; and all acts done by such directors, managers or liquidators shall be valid notwithstanding any defect that may afterwards be discovered in their appointments or qualifications. 1901, c. 20, s. 134.

**Plaintiff company to give security for costs in certain cases**

**135.** Where a company under this Ordinance is plaintiff in any action, suit or other legal proceeding any judge having jurisdiction in the matter may if it appears by any credible testimony that there is reason to believe that if the defendant be successful in his defence the assets of the company will be insufficient to pay his costs require sufficient security to be given for such costs and may stay all proceedings until such security is given. 1901, c. 20, s. 135.

**Declaration in action against member**

**136.** In any action or suit brought by a company under this Ordinance against any member to recover any call or other moneys due from such member in his character of member it shall not be necessary to set forth the special matter but it shall be sufficient to allege that the defendant is a member of the company and is indebted to the company in respect of a call made or other moneys due whereby a right of action or suit hath accrued to the company. 1901, c. 20, s. 136.

*False Statement.*

Penalty for false statement

**137.** If any person in any return, report, certificate, balance sheet or other document required by or for the purposes of this Ordinance wilfully makes a statement false in any material particular knowing it to be false he shall be liable on summary conviction to a penalty not exceeding $500 or to imprisonment for a term not exceeding four months or to both fine and imprisonment. 1901, c. 20, s. 137.

*Arbitration.*

Power to companies to refer matters to arbitration

**138.** Any company under this Ordinance may from time to time by writing under its common seal agree to refer and may refer to arbitration in accordance with *The Arbitration Ordinance* any existing or future difference, question or other matter whatsoever in dispute between itself and any other company or person; and the parties to the arbitration may delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves or by the directors or other managing body of such companies. 1901, c. 20, s. 138.

Application of Arbitration Ordinance

**139.** All the provisons of *The Arbitration Ordinance* shall be deemed to apply to arbitrations between companies and persons in pursuance of this Ordinance. 1901, c. 20, s. 139.

*Forms.*

Lieutenant Governor in Council may alter forms in schedule

**140.** The forms set forth in the second schedule hereto or forms as near thereto as circumstances admit shall be used in all matter to which such forms refer.

(2) The Lieutenant Governor in Council may from time to time make such alterations in the forms in the second schedule or make such additions to the said forms as may be requisite.

(3) Any alteration or any form when altered shall be published in the gazette; and upon such publication being made such alteration or such form shall have the same force as if it were included in the schedule to this Ordinance and shall be substituted in or for the form it alters. 1901, c. 20, s. 140.

## PART IV.

### APPLICATION TO EXISTING COMPANIES.

Cap 31. 1956.

Existing companies may register

**141.** Any company heretofore incorporated by any special Ordinance of the Territories or by letters patent under the provisions of any Ordinance of the Territories may register itself under this Ordinance as a company limited by shares. 1901, c. 20, s. 141.

Procedure for registration of existing company

**142.** The procedure for registering any existing company shall be as follows:

1. If it is not desired to make any alteration in the name, objects or capital of the company nor to provide for a new allotment of shares the directors may apply to the registrar to have the company registered;

2. If the directors should desire to change the name of the company or to extend its objects or to increase or reduce its capital or to provide for a new allotment of shares they shall call a meeting of the shareholders of the company by sending to each shareholder through the post in a prepaid letter addressed to him at his registered place of abode seven days' notice at the least specifying the place, the day and the hour of meeting and containing a copy of the resolution to be submitted to such meeting and such resolution shall contain particulars of the proposed alterations;

3. In case it shall be resolved by a vote of not less than two-thirds in value of the shareholders present in person or by proxy at such meeting that the company be registered under this Ordinance in manner specified the directors shall apply to the registrar to have the company so registered. 1901, c. 20, s. 142.

Application for registration by existing company

**143.** When an existing company applies for registration under this Ordinance there shall be delivered to the registrar the following documents duly verified:

1. A list showing the names, addresses and occupations of all persons who on a day named on such list and not being more than ten clear days before the day of registration were members of such company with the addition of the shares held by such persons respectively distinguishing in cases where such shares are numbered each share by its number;

2. The names of the directors of such company;

3. A copy of any letters patent, certificate or other instrument constituting or regulating the company or if incorporated

by a special Ordinance a reference to such Ordinance and any amendments thereto;

4. A statement verifying the following particulars, that is to say:

(*a*) The nominal capital of the company and the number of shares into which it is divided;

(*b*) The number of shares taken and the amount paid on each share;

(*c*) The name of the company with the addition of the word "Limited" as the last word thereof;

5. A memorandum of association or a statement that the letters patent or special Ordinance of incorporation as the case may be shall be treated as a memorandum of association and articles of association if desired executed in the same manner and containing the same particulars as are necessary upon the first registration of a company;

6. A copy of the resolution if any passed at the meeting of the company referred to in the preceding section. 1901, c. 20, s. 143.

Power to existing company to vary objects of company, etc., upon registration

**144.** Where an existing company applies for registration as aforesaid the memorandum of association shall conform with the terms of the resolution of the company; and may if so authorised extend, vary or limit the powers and objects of the old company; and the certificate of registration may be issued to the new company by the name of the old company or by any other name in which the last word shall be "Limited."

(2) Where an existing company applies for registration as aforesaid the capital of the company may be increased or decreased to any amount which may be fixed by the resolution of the company authorising such resolution.

(3) The said resolution may prescribe the manner in which the shares or stock in the new company are to be allotted; and in default of its so doing the control of the allotment shall vest absolutely in the directors of the new company.

(4) Whenever the registrar considers that public notice of an intended application as aforesaid should be given he may require such notice to be published in the Gazette or otherwise as he thinks proper.

(5) The registrar may further requre evidence of the existence of a company applying for registration as aforesaid. *1901, c. 20, s. 144.*

Certificate of registration of existing company

**145.** Upon compliance by an existing company with the aforesaid requirements the registrar shall certify under his hand that the company so applying for registration is incorporated as a company under this Ordinance and that it is limited; and thereupon such company shall be incorporated and shall have perpetual succession and a common seal with power to hold lands. 1901, c. 20, s. 145.

Certificate of incorporation to be conclusive evidence

**146.** A certificate of incorporation given at any time to any company registered in pursuance of this part of this Ordinance shall be conclusive evidence that all the requirements herein contained in respect of registration under this Ordinance have been complied with; and that the company is authorised to be registered under this Ordinance as a limited company; and the date of incorporation mentioned in such certificate shall be deemed to be the date at which the company is incorporated under this Ordinance. 1901, c. 20, s. 146.

Transfer of property to company

**147.** All such property real and personal including all interests and rights in, to and out of property real and personal and including obligations and things in action as may belong to or be vested in the company at the date of its registration under this Ordinance shall on registration pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein. 1901, c. 20, s. 147.

Registration not to affect obligation previously incurred

**148.** The registration in pursuance of this part of this Ordinance of any company shall not affect or prejudice the liability of such company to have enforced against it or its right to enforce any debt or obligation incurred or any contract entered into, by, to, with or on behalf of such company previous to such registration. 1901, c. 20, s. 148.

Continuation of existing actions

**149.** All such actions and other legal proceedings as may at the time of the registration of any company registered in pursuance of this part of this Ordinance have been commenced by or against such company or any officer or member thereof may be continued in the same manner as if such registration had not taken place; nevertheless execution shall not issue against the effects of any individual member of such company upon any judgment, decree or order obtained in any action, suit or proceeding so commenced as aforesaid; but in the event of the property and effects of the company being insufficient to satisfy such judgment, decree or order an order may be obtained for winding up the company. 1901, c. 20, s. 149.

## *Repeal.*

**150.** Chapter 61 of *The Consolidated Ordinances 1898* intituled *An Ordinance respecting the Incorporation of Joint Stock Companies,* chapter 62 of *The Consolidated Ordinances 1898* intituled *An Ordinance to authorise the changing of the names of Incorporated Companies* and chapter 64 of *The Consolidated Ordinances 1898* intituled *An Ordinance respecting Mining Companies,* chapter 12 of the Ordinances of 1899 and chapter 17 of the Ordinances of 1900 amending chapter 61 of *The Consolidated Ordinances 1898* and chapter 19 of the Ordinances of 1900 amending chapter 64 of *The Consolidated Ordinances 1898* are hereby repealed: **Repeal**

Provided that such repeal shall not affect:

(*a*) Anything duly done under any of the said repealed Ordinances;

(*b*) The corporate existence of any company incorporated under the said repealed Ordinances;

(*c*) Any right or privilege acquired or liability incurred under any of the said repealed Ordinances;

(*d*) Any conveyance, transfer, mortgage, deed or other instrument made in pursuance of the said repealed Ordinances. 1901, c. 20, s. 150.

**151.** Every company incorporated under the said Ordinances hereby repealed or under any general Ordinance of the Territories relating to the incorporation of joint stock companies shall register itself as a company under this Ordinance on or before the first day of July, 1902. **Compulsory registration**

(2) No fees shall be charged in respect of the registration of any company required to register by this section except in respect of increase of capital. 1901, c. 20, s. 151.

**152.** If any company required by the preceding section to register under this Ordinance makes default in complying with the provisions thereof then from and after the date upon which such company is required to register under this Ordinance until the day on which such company is registered under this Ordinance which it is empowered to do at any time the following consequences shall ensue, that is to say: **Penalty for company not registering**

(*a*) The company shall be incapable of suing but shall not be incapable of being made a defendant to a suit;

(*b*) No dividend shall be payable to any shareholder in such company;

(*c*) Each director or manager of the company shall for each day during which the company so being in default carries on business on summary conviction be liable to a penalty not exceeding $25;

nevertheless such default shall not render the company so being in default an illegal one nor subject to any penalty or disability other than as specified in this section. 1901, c. 20, s. 152.

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## FIRST SCHEDULE.

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### TABLE A.—REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES.

*Shares.*

First schedule Table A

(1) If several persons are registered as joint holders of any shares any of such persons may give effectual receipts for any dividend payable in respect of such shares.

(2) Every member shall on payment of twenty-five cents or such less sum as the company in general meeting may prescribe be entitled to a certificate under the common seal of the company specifying the share or shares held by him and the amount paid up thereon.

(3) If such certificate is worn out or lost it may be renewed on payment of twenty-five cents or such less sum as the company in general meeting may prescribe.

*Calls on Shares.*

(4) The directors may from time to time make such calls upon the members in respect of all moneys unpaid on their shares as they think fit provided that thirty days' notice at least is given of each call and each member shall be liable to pay the amount of calls so made to the persons and at the time and place appointed by the directors.

(5) A call shall be deemed to have been made at the time when the resolution of the directors authorising such call was passed.

(6) If the call payable in respect of any share is not paid before or on the day appointed for payment thereof the holder for the time being of such share shall be liable to pay interest for the same at the rate of five per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

First schedule Table A

(7) The directors may if they think fit receive from any member willing to advance the same all or any part of the moneys due upon the shares held by him beyond the sums actually called for; and upon the money so paid in advance or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made the company may pay interest at such rate as the member paying such sum in advance and the directors may agree upon.

### *Transfer of Shares.*

(8) The instrument of transfer of any shares in the company shall be executed both by the transferror and the transferee and the transferror shall be deemed to remain a holder of such share until the name of the transferee is entered in the register book in respect thereof.

(9) Shares in the company shall be transferred in the following form:

I, *A.B.*, of , in consideration of the sum of dollars paid to me by *C.D.* of , do hereby transfer to the said *C.D.* the share (*or* shares) numbered standing in my name in the books of the company to hold unto the said *C.D.*, his executors, administrators and assigns, subject to the several conditions on which I held the same at the time of the execution hereof; and I, the said *C.D.*, do hereby agree to take the said share (*or* shares) subject to the same conditions. As witness our hands the day of

(10) The company may decline to register any transfer of shares made by a member who is indebted to it.

(11) The transfer books shall be closed during the fourteen days immediately preceding the ordinary general meeting in each year.

### *Transmission of Shares.*

(12) The executors or administrators of a deceased member shall be the only persons recognised by the company as having any title to his share.

(13) Any person becoming entitled to a share in consequence of the death or insolvency of any member may be registered as a member upon such evidence being produced as may from time to time be required by the company.

(14) Any person who has become entitled to a share in consequence of the death or insolvency of any member may

First schedule Table A

instead of being registered himself elect to have some person to be named by him registered as a transferee of such share.

(15) The person so becoming entitled shall testify such election by executing to his nominee an instrument of transfer of such share.

(16) The instrument of transfer shall be presented to the company accompanied with such evidence as the directors may require to prove the title of the transferror and thereupon the company shall register the transferee as a member.

*Forfeiture of Shares.*

(17) If any member fails to pay any call on the day appointed for the payment thereof the directors may at any time thereafter during such time as the call remains unpaid serve a notice on him requiring him to pay such call together with interest and any expenses that may have accrued by reason of such nonpayment.

(18) The notice shall name a further day on or before which such call and all interest and expenses that may have accrued by reason of such nonpayment are to be paid; it shall also name the place where payment is to be made the place so named being either the registered office of the company or some other place at which calls of the company are usually made payable; the notice shall also state that in the event of nonpayment at or before the time and at the place appointed the shares in respect to which such call was made will be liable to be forfeited.

(19) If the requisitions of any such notice as aforesaid are not complied with any share in respect of which such notice has been given may at any time thereafter before payment of all calls, interest and expenses due in respect thereof has been made be forfeited by a resolution of the directors to that effect.

(20) Any share so forfeited shall be deemed to be the property of the company and may be disposed of in such manner as the company in general meeting thinks fit.

(21) Any members whose shares have been forfeited shall notwithstanding be liable to pay to the company all calls owing upon such shares at the time of the forfeiture.

(22) An affidavit that the call in respect of a share was made and notice thereof given and that default in payment of the call was made and that the forfeiture of the share was made by resolution of the directors to that effect shall be sufficient evidence of the facts therein stated as against all persons entitled to such share and such affidavit and the

receipt of the company for the price of such share shall constitute a good title to such share and the certificate of proprietorship shall be delivered to the purchaser and thereupon he shall be deemed the holder of such share discharged from all calls due prior to such purchase and he shall not be bound to see to the application of the purchase money nor shall his title to such share be affected by any irregularity in the proceedings in reference to such sale.

### *Conversion of Shares into Stock.*

(23) The directors may with the sanction of the company previously given in general meting convert any paid up shares into stock.

(24) When any shares have been converted into stock the several holders of such stock may thenceforth transfer their respective interests therein or any part of such interests in the same manner and subject to the same regulations as and subject to which any shares in the capital may be transferred or as near thereto as circumstances admit.

(25) The several holders of stock shall be entitled to participate in the dividends and profits of the company according to the amount of their respective interest in such stock; and such interest shall in proportion to the amount thereof confer on the holders thereof respectively the same privileges and advantages for the purpose of voting at meetings of the company and for other purposes as would have been conferred by shares of equal amount in the capital of the company; but so that none of such privileges or advantages except the participation in the dividends and profits of the company shall be conferred by any such aliquot part of consolidated stock as would not if existing in shares have conferred such privileges or advantages.

### *Increase in Capital.*

(26) The directors may with the sanction of a special resolution of the company previously given in general meeting increase its capital by the issue of new shares such aggregate increase to be of such amount and to be divided into shares of such respective amounts as the company in general meeting directs or if no direction is given as the directors may think expedient.

(27) Subject to any direction to the contrary that may be given by the meeting that sanctions the increase of capital all new shares shall be offered to the members in proportion to

the existing shares held by them and such offer shall be made by notice specifying the number of shares to which the member is entitled and limiting the time within which the offer if not accepted will be deemed to be declined; and after the expiration of such time or on the receipt of an intimation from the member whom such notice is given that he declines to accept the shares offered the directors may dispose of the same in such manner as they think most beneficial to the company.

(28) Any capital raised by the creation of new shares shall be considered as part of the original capital and shall be subject to the same provisions with reference to the payment of the calls and the forfeiture of shares or nonpayment of calls or otherwise as if it had been part of the original capital.

### *General Meetings.*

(29) The first general meeting shall be held at such time not being more than four months after the registration of the company and at such place as the directors may determine.

(30) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed a general meeting shall be held on the first Monday in February every year at such place as shall be determined by the directors.

(31) The above mentioned general meetings shall be called ordinary meetings; all other meetings shall be called extraordinary.

(32) The directors may whenever they think fit and they shall upon a requisition made in writing by not less than one-fifth in number of the members of the company convene an extraordinary general meeting.

(33) Any requisition made by the members shall express the object of the meeting proposed to be called and shall be left at the registered office of the company.

(34) Upon the receipt of such requisition the directors shall forthwith proceed to convene an extraordinary general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition the requisitionists or any other members amounting to the required number may themselves convene an extraordinary general meeting.

## *Proceedings at General Meeting.*

First schedule Table A

(35) Seven days' notice at the least specifying the place, the day and the hour of meeting and in case of special business the general nature of such business shall be given to the members in manner hereafter mentioned or in such other manner if any as may be prescribed by the company in general meeting but the nonreceipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(36) All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of sanctioning a dividend and the consideration of the accounts, balance sheets and the ordinary report of the directors.

(37) No business shall be transacted at any general meeting except the declaration of a dividend unless a quorum of members is present at the time when the meeting proceeds to business; and such quorum shall be ascertained as follows, that is to say: If the persons who have taken shares in the company at the time of the meeting do not exceed ten in number the quorum shall be three; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty and one for every ten additional members after fifty with this limitation that no quorum shall in any case exceed twenty.

(38) If within one hour from the time appointed for a meeting a quorum is not present the meeting if convened upon the requisition of members shall be dissolved; in any other case it shall stand adjourned to the same day in the next week at the same time and place; and if at such adjourned meeting a quorum is not present it shall be adjourned *sine die.*

(39) The president of the company shall preside as chairman at every general meeting of the company.

(40) If there is no such chairman or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting the members present shall choose some one of their number to be chairman.

(41) The chairman may with the consent of the meeting adjourn any meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

First schedule Table A

(42) At any general meeting unless a poll is demanded by at least three members a declaration by the chairman that a resolution has been carried and an entry to that effect in the book of proceedings of the company shall be sufficient evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

(43) If a poll is demanded by three or more members it shall be taken in such manner as the chairman directs and the result of such poll shall be deemed to be the resolution of the company in general meeting; in case of an equality of votes at any general meeting the chairman shall be entitled to a second or casting vote.

### *Votes of Members.*

(44) Every member shall have one vote for every share up to ten; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred and an additional vote for every ten shares beyond the first hundred shares.

(45) If any member is a lunatic or idiot he may vote by his committee, *curator bonis* or other legal curator or guardian.

(46) If one or more persons are jointly entitled to a share or shares the member whose name stands first in the register of members as one of the holders of such share or shares and no other shall be entitled to vote in respect of the same.

(47) No member shall be entitled to vote at any general meeting unless all calls due from him have been paid and no member shall be entitled to vote in respect of any share that he has acquired by transfer at any meeting held after the expiration of three months from the registration of the company unless he has been possessed of the share in respect of which he claims to vote for at least three months previously to the time of holding the meeting at which he proposes to vote.

(48) Votes to be given either personally or by proxy.

(49) The instrument appointing a proxy shall be in writing under the hand of the appointor or if such appointor is a corporation under their common seal and shall be attested by one or more witness or witnesses; no person shall be appointed a proxy who is not a member of the company.

(50) The instrument appointing a proxy shall be deposited at the registered office of the company not less than twenty-four hours before the time for holding the meeting at which the person named in such instrument proposes to vote; but no

instrument appointing a proxy shall be valid after the expiration of twelve months from the date of its execution.

(51) Any instrument appointing a proxy shall be in the following form:

Company, Limited,
I, , of , being a member
of the Company, Limited, and entitled to
vote (*or* votes) hereby appoint of
as my proxy to vote for me and on my behalf at the ordinary (*or* extraordinary *as the case my be*) general meeting of the company to be held on the day of
and at any adjournment thereof (*or* at any meeting of the company that may be held in the year ).
As witness my hand this day of
Signed by the said in the presence of

*Directors.*

(52) The number of the directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(53) Until directors are appointed the subscribers of the memorandum of association shall be deemed to be directors.

(54) The future remuneration of the directors and their remuneration for services performed previously to the first general meeting shall be determined by the company in general meeting.

*Powers of Directors.*

(55) The business of the company shall be managed by the directors who may pay all expenses incurred in getting up and registering the company and may exercise all such powers of the company as are not by the foregoing Ordinance or by these articles required to be exercised by the company in general meeting subject nevertheless to any regulations of these articles, to the provisions of the foregoing Ordinance and to such regulations being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

(56) The continuing directors may act notwithstanding any vacancy in their body.

First schedule
Table A

### *Disqualification of Directors.*

(57) The office of the director shall be vacated:

If he holds any other office or place of profit under the company;

If he becomes insolvent;

If he is concerned in or participates in the profits of any contract with the company.

But the above rules shall be subject to the following exceptions:

That no director shall vacate his office by reason of his being a member of any company which has entered into contracts with or done any work for the company of which he is a director; nevertheless he shall not vote in respect of such contract or work; and if he does so vote his vote shall not be counted.

### *Rotation of Directors.*

(58) At the first ordinary meeting after the registration of the company the whole of the directors shall retire from office; and at the first ordinary meeting in every subsequent year one-third of the directors for the time being or if their number is not a multiple of three then the number nearest to one-third shall retire from office.

(59) The one-third or other nearest number to retire during the first and second years ensuing the first ordinary meeting of the company shall unless the directors agree among themselves be determined by ballot; in every subsequent year the one-third or other nearest number who have been longest in office shall retire.

(60) A retiring director shall be re-eligible.

(61) The company at the general meeting at which any directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

(62) If at any meeting at which an election of directors ought to take place the places of the vacating directors are not filled up the meeting shall stand adjourned till the same day in the next week at the same time and place: and if at such adjourned meeting the places of the vacating directors are not filled up the vacating directors or such of them as have not had their places filled up shall continue in office until the ordinary meeting in the next year and so on from time to time until their places are filled up.

First schedule Form A

(63) The company may from time to time in general meeting increase or reduce the number of directors and may also determine in what rotation such increased or reduced number is to go out of office.

(64) Any casual vacancy occurring in the board of directors may be filled up by the directors but any person so chosen shall retain his office so long only as the vacating director would have retained the same if no vacancy had occurred.

(65) The company in general meeting may by a special resolution remove any director before the expiration of his period of office and may by an ordinary resolution appoint another person in his stead; the person so appointed shall hold office during such time only as the director in whose place he is appointed would have held the same if he had not been removed.

### *Proceedings of Directors.*

(66) The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit and determine the quorum necessary for the transaction of business. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may at any time summon a meeting of the directors.

(67) The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected or if at any meeting the chairman is not present at the time appointed for holding the same the directors present shall choose some one of their number to be chairman of such meeting.

(68) The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit. Any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on them by the directors.

(69) A committee may elect a chairman of their meetings. If no such chairman is elected or if he is not present at the time appointed for holding the same the members present shall choose one of their number to be chairman of such meeting.

(70) A committee may meet and adjourn as they think proper. Questions arising at any meeting shall be determined by a majority of votes of the members present; and in case of an equality of votes the chairman shall have a second or casting vote.

First schedule Table A (71) All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid or that they or any of them were disqualified be as valid as if every such person had been duly appointed and was qualified to be a director.

### *Dividends.*

(72) The directors may with the sanction of the company in general meeting declare a dividend to be paid to the members in proportion to their shares.

(73) No dividend shall be payable except out of the profits arising from the business of the company.

(74) The directors may before recommending any dividend set apart out of the profits of the company such sum as they think proper as a reserve fund to meet contingencies or for equalising dividends or for repairing or maintaining the works connected with the business of the company or any part thereof; and the directors may invest the sum so set apart as a reserve fund upon such securities as they may select.

(75) The directors may deduct from the dividends payable to any member all such sums of money as may be due from him to the company on account of calls or otherwise.

(76) Notice of any dividend that may have been declared shall be given to each member in manner hereinafter mentioned; and all dividends unclaimed for three years after having been declared may be forfeited by the directors for the benefit of the company.

(77) No dividend shall bear interest as against the company.

### *Accounts.*

(78) The directors shall cause true accounts to be kept:

Of the stock-in-trade of the company;

Of the sums of money received and expended by the company and the matter in respect of which such receipt and expenditure takes place; and

Of the credits and liabilities of the company.

The books of account shall be kept at the registered office of the company and subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the company in general meeting shall be open to the inspection of the members during the hours of business.

First schedule Table A

(79) Once at the least in every year the directors shall lay before the company in general meeting a statement of the income and expenditure for the past year made up to a date not more than three months before such meeting.

(80) The statement so made shall show arranged under the most convenient heads the amount of gross income distinguishing the several sources from which it has been derived and the amount of gross expenditure distinguishing the expense of the establishment, salaries and other like matters. Every item of expenditure fairly chargeable against the year's income shall be brought into account so that a just balance of profit and loss may be laid before the meeting and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year the whole amount of such item shall be stated with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

(81) A balance sheet shall be made out in every year and laid before the company in general meeting and such balance sheet shall contain a summary of the property and liabilities of the company arranged under the heads appearing in the form annexed to this table or as near thereto as circumstances admit.

(82) A printed copy of such balance sheet shall seven days previously to such meeting be served on every member in the manner in which notices are hereinafter directed to be served.

### *Notices.*

(83) A notice may be served by the company upon any member either personally or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

(84) All notices directed to be given to the members shall with respect to any share to which persons are jointly entitled be given to whichever of such persons is named first in the register of members; and notice so given shall be sufficient notice to all the holders of such share.

(85) Any notice if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put in the post office. 1901, c. 20.

First schedule
Table A

## DR. BALANCE SHEET OF THE Co. MADE UP TO , 19 . CR.

| CAPITAL AND LIABILITIES. | | | | PROPERTY AND ASSETS. | | | |
|---|---|---|---|---|---|---|---|
| I. CAPITAL. | Showing:<br>1 The number of shares - - - - - -<br>2 The amount paid per share - - - - -<br>3 If any arrears of calls, the nature of the arrears and the names of the defaulters.<br>4 The particulars of any forfeited shares | $ | $ | III. PROPERTY held by the company. | Showing:<br>7 Immovable property, distinguishing—<br>(a) Freehold land - - - - - -<br>(b) " buildings - - - - -<br>(c) Leasehold " - - - - -<br>8 Movable property, distinguishing—<br>(d) Stock in trade<br>(e) Plant<br>The cost to be stated, with deductions for deterioration in value, as charged to the reserve fund or profit and loss. | $ | $ |
| II. DEBTS AND LIABILITIES of the company. | Showing:<br>5 The amount of loans on mortgages or debenture bonds<br>6 The amount of debts owing by the company, distinguishing—<br>(a) Debts for which acceptances have been given;<br>(b) Debts to tradesmen for supplies of stock-in-trade or other articles;<br>(c) Debts for law expenses;<br>(d) Debts for interest on debentures or other loans;<br>(e) Unclaimed dividends;<br>(f) Debts not enumerated above. | | | IV. DEBTS OWING to the company. | Showing:<br>Debts considered good for which the company hold bills or other securities.<br>10 Debts considered good for which the company hold no security.<br>11 Debts considered doubtful and bad.<br>Any debt due from a director or other officer of the company to be separately stated. | | |
| VI. RESERVE FUND. | Showing:<br>The amount set aside from profits to meet contingencies. | | | V. CASH AND INVESTMENTS. | Showing:<br>12 The nature of investment and rate of interest<br>13 The amount of cash, where lodged, and if bearing interest. | | |
| VII. PROFIT AND LOSS | Showing:<br>The disposable balance for payment of dividend, etc. | | | | | | |
| | | | | | | | |
| CONTINGENT LIABILITIES. | Claims against the company not acknowledged as debts.<br>Moneys for which the company is contingently liable. | | | | | | |

## TABLE B.—TABLE OF FEES TO BE PAID TO THE REGISTRAR BY A COMPANY HAVING A CAPITAL DIVIDED INTO SHARES.

First schedule Table B

| | |
|---|---|
| For registration of a company whose nominal capital does not exceed $10,000 a fee of | $10.00 |
| For registration of a company whose nominal capital exceeds $10,000 the above fee of $10 with the following additional fees regulated according to the amount of nominal capital, that is to say: | |
| For every $5,000 of nominal capital or part of $5,000 after the first $10,000 up to $25,000 | 5.00 |
| For every $5,000 of nominal capital or part of $5,000 after the first $25,000 up to $500,000 | 2.00 |
| For every $5,000 of nominal capital or part of $5,000 after the first $500,000 | 1.00 |
| For registration of any increase of capital made after the first registration of the company or any increase of capital of an existing company registering under this Ordinance the same fees per $5,000 or part of a $5,000 as would have been payable if such increased capital had formed part of the original capital at the time of registration in accordance with this table. | |
| For registration of any existing company except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance the same fee as is charged for registering a new company. | |
| For registering any document hereby required or authorised to be registered other than the memorandum of association | 1.00 |
| For making a record of any fact hereby authorised or required to be recorded by the registrar a fee of | 1.00 |

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## TABLE C.—TABLE OF FEES TO BE PAID TO THE REGISTRAR BY A COMPANY NOT HAVING A CAPITAL DIVIDED INTO SHARES.

First schedule Table C

| | |
|---|---|
| For registration of a company whose number of members as stated in the articles of association does not exceed 10 | $10.00 |

First schedule
Table C

| | |
|---|---|
| For registration of a company whose number of members as stated in the articles of association exceeds 10 but does not exceed 100........... | 25.00 |
| For registration of a company whose number of members as stated in the articles of association exceeds 100 but is not stated to be unlimited the above fee of $25 with an additional $1 for every 50 members or less number than 50 members after the first 100..................... | |
| For registration of a company in which the number of members is stated in the articles of association to be unlimited a fee of................$ | 100.00 |
| For registration of any increase in the number of members made after the registration of the company in respect of every 50 members or less than 50 members of such increase............ | 1.00 |
| Provided that no one company shall be liable to pay on the whole a greater fee than $100 in respect of its number of members, taking into account the fee paid on the first registration of the company. | |
| For registering any document hereby required or authorised to be registered other than the memorandum of association.................... | 1.00 |
| For making a record of any fact hereby authorised or required to be recorded by the registrar of companies a fee of......................... | 1.00 |

1901, c. 20.

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## SECOND SCHEDULE.

Second
schedule
Form A

### FORM A.—MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES.

(1) The name of the company is "The Rathburn Stove and Furnace Company, Limited."

(2) The registered office of the company will be situate in

(3) The objects for which the company is established are "the manufacture and sale of stoves and furnaces."

(4) The liability of the members is limited.

(5) The capital of the company is dollars divided into shares of dollars each. Second schedule Form A

We the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

| Names, addresses and descriptions of subscribers. | No. of shares taken by each subscriber |
|---|---|
| 1. John Jones, of , merchant | 200 |
| 2. John Smith, of , " | 25 |
| 3. Thomas Green, of , " | 30 |
| 4. John Thompson, of , " | 40 |
| 5. Caleb White, of , " | 15 |
| Total shares taken.......... | 310 |

Dated the day of

Witness to the above signatures—

*A.B.*, of

1901, c. 20.

## FORM B.—MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND NOT HAVING A CAPITAL DIVIDED INTO SHARES.

Second schedule Form B

### *Memorandum of Association.*

(1) The name of the company is "The Western Ranchman's Supply Association, Limited."

(2) The registered office of the company will be situate in

(3) The objects for which the company is established are "the purchasing of all classes of goods, wares and merchandise and supplying the same to members of the company and the doing all such other things as are incidental or conducive to the attainment of the above objects."

(4) Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a

Second schedule Form B

member and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding dollars.

We the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses and descriptions of subscribers:

1. John Jones, of , merchant.
2. John Smith, of , "
3. Thomas Green, of , "
4. John Thompson, of , "
5. Caleb White, of , "

Dated the day of 190

Witness to the above signatures—

*A.B.*, of

1901, c. 20.

## ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

(1) The company for the purpose of registration is declared to consist of five hundred members.

(2) The directors hereinafter mentioned may whenever the business of the association requires it register an increase of members.

### *Definition of Members.*

(3) Every person shall be deemed to have agreed to become a member of the company who insures any ship or share in a ship in pursuance of the regulations hereinafter contained.

### *General Meetings.*

(4) The first general meeting shall be held at such time not being more than three months after the incorporation of the company and at such place as the directors may determine.

(5) Subsequent general meetings shall be held at such time and place as may be prescribed by the company in general meeting; and if no other time or place is prescribed a general meeting shall be held on the first Monday in February in every year at such place as may be determined by the directors.

(6) The above mentioned general meetings shall be called ordinary meetings; all other general meetings shall be called extraordinary.

(7) The directors may whenever they think fit and they shall upon a requisition made in writing by any five or more members convene an extraordinary general meeting. Second schedule Form B

(8) Any requisition made by the members shall express the object of the meeting proposed to be called and shall be left at the registered office of the company.

(9) Upon the receipt of such requisition the directors shall forthwith proceed to convene a general meeting. If they do not proceed to convene the same within twenty-one days from the date of the requisition the requisitionists or any other five members may themselves convene a meeting.

### *Proceedings at General Meetings.*

(10) Seven days' notice at the least specifying the place, the day and the hour of meeting and in case of special business the general nature of such business shall be given to members in manner hereinafter provided or in such other manner if any as may be prescribed by the company in general meeting; but the nonreceipt of such notice by any member shall not invalidate the proceedings at any general meeting.

(11) All business shall be deemed special that is transacted at an extraordinary meeting and all that is transacted at an ordinary meeting with the exception of the consideration of the accounts, balance sheets and the ordinary report of the directors.

(12) No business shall be transacted at any meeting except the declaration of a dividend unless a quorum of members is present at the commencement of such business; and such quorum shall be ascertained as follows, that is to say: If the members of the company at the time of the meeting do not exceed ten in number the quorum shall be five; if they exceed ten there shall be added to the above quorum one for every five additional members up to fifty and one for every ten additional members after fifty with this limitation that no quorum shall in any case exceed thirty.

(13) If within one hour from the time appointed for the meeting a quorum of members is not present the meeting if convened upon the requisition of the members shall be dissolved. In any other case it shall stand adjourned to the same day in the folllowing week at the same time and place; and if at such adjourned meeting a quorum of members is not present it shall be adjourned *sine die*.

**Second schedule Form B**

(14) The chairman if any of the directors shall preside as chairman at every general meeting of the company.

(15) If there is no such chairman or if at any meeting he is not present at the time of holding the same the members present shall choose some one of their number to be chairman at such meeting.

(16) The chairman may with the consent of the meeting adjourn any meeting from time to time and from place to place but no business shall be thansacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

(17) At any general meeting unless a poll is demanded by at least five members a declaration by the chairman that a resolution has been carried and an entry to the effect in the book of proceedings of the company shall be sufficient evidence of the fact without proof of the number or proportion of votes recorded in favour of or against such resolution.

(18) If a poll is demanded in manner aforesaid the same shall be taken in such manner as the chairman directs and the result of such poll shall be deemed to be the resolution of the company in general meeting.

*Votes of Members.*

(19) Every member shall have one vote and no more.

(20) If any member is a lunatic or idiot he may vote by his committee *curator bonis* or other legal curator or guardian.

(21) No member shall be entitled to vote at any meeting unless all moneys due from him to the company have been paid.

(22) Votes may be given either personally or by proxies. A proxy shall be appointed in writing under the hand of the appointer or if such appointer is a corporation under its common seal.

(23) No person shall be appointed a proxy who is not a member and the instrument appointing him shall be deposited at the registered office of the company not less than twenty-four hours before the time of holding the meeting at which he proposes to vote.

(24) Any instrument appointing a proxy shall be in the following form:

Company, Limited.

I, of ,being a member of the Company, Limited, hereby appoint , of , as my proxy to vote for me and on my behalf at the (ordinary *or* extraordinary *as the case may be*) general meeting of the company to be held on the day of , and at any adjournment thereof to be held on the day next (*or* any meeting of the company that may be held in the year 190 ).

**Second schedule Form B**

As witness my hand this day of

Signed by the said in the presence of

*Directors.*

memorandum of association shall for all the purposes of this

(25) The number of directors and the names of the first directors shall be determined by the subscribers of the memorandum of association.

(26) Until directors are appointed the subscribers of the Ordinance be deemed to be directors.

*Powers of Directors.*

(27) The business of the company shall be managed by the directors who may exercise all such powers of the company as are not hereby required to be exercised by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made.

*Election of Directors.*

(28) The directors shall be elected annually by the company in general meeting.

*Business of Company.*

(*Here insert rules as to mode in which business of company is carried on.*)

*Notices.*

(29) A notice may be served by the company upon any member either personally or by sending it through the post in a prepaid letter addressed to such member at his registered place of abode.

(30) Any notice if served by post shall be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of the post; and in proving such service it shall be sufficient to prove that a letter containing the notice was properly addressed and put into the post office. 1901, c. 20.

Second schedule Form C

## FORM C.—MEMORANDUM AND ARTICLES OF ASSOCIATION OF A COMPANY LIMITED BY GUARANTEE AND HAVING A CAPITAL DIVIDED INTO SHARES.

### *Memorandum of Association.*

(1) The name of the company is "The Highland Hotel Company, Limited."

(2) The registered office of the company will be situate in

(3) The objects for which the company is established are: Facilitating travelling in the Territories by providing hotels and conveyances for the accommodation of travellers and the doing all such other things as are incidental or conducive to the attainment of the above object.

(4) Every member of the company undertakes to contribute to the assets of the company in the event of the same being wound up during the time that he is a member or within one year afterwards for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member and the costs, charges and expenses of winding up the same and for the adjustment of the rights of the contributories amongst themselves such amount as may be required not exceeding dollars.

We the several persons whose names and addresses are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses and descriptions of subscribers:

1. John Jones, of , merchant.
2. John Smith, of , "
3. Thomas Green, of , "
4. John Thompson, of , "
5. Caleb White, of , "

Dated the day of 190 .

Witness to the above signatures—
*A.B.* of

1901, c. 20.

### ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

(1) The capital of the company shall consist of dollars divided into shares of dollars each.

(2) The directors may with the sanction of the company in general meeting reduce the amount of shares.

(3) The directors may with the sanction of the company in general meeting cancel any shares belonging to the company. Second schedule Form C

(4) All the articles of Table A in the schedule to *The Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the company.

We the several persons whose names and addresses are subscribed agree to take the number of shares in capital of the company set opposite our respective names—

| Names, addresses and descriptions of subscribers | Number of shares taken by each subscriber |
|---|---|
| 1. John Jones, of , ...... | 200 |
| 2. John Smith, of , ...... | 25 |
| 3. Thomas Green, of , ...... | 30 |
| 4. John Thompson, of , ...... | 40 |
| 5. Caleb White, of , ...... | 15 |
| Total shares taken...... | 310 |

Dated the day of 190

Witness to the above signatures—

*A.B.*, of

1901, c. 20.

## FORM D.—MEMORANDUM AND ARTICLES OF ASSOCIATION OF AN UNLIMITED COMPANY HAVING A CAPITAL DIVIDED INTO SHARES.

Second schedule Form D

### *Memorandum of Association.*

(1) The name of the company is "The Patent Stereotype Company."

(2) The registered office of the company will be situate in

(3) The objects for which the company is established are "the working of a patent method of founding and casting stereotype plates of which method John Smith of is the sole patentee."

**Second schedule Form D**

We the several persons whose names are subscribed are desirous of being formed into a company in pursuance of this memorandum of association.

Names, addresses, and descriptions of subscribers.
1. John Jones, of , merchant.
2. John Smith, of , "
3. Thomas Green, of , "
4. John Thompson, of , "
5. Caleb White, of , "

Dated the day of 190

Witness to the above signatures—
*A.B.*, of

1901, c. 20.

## ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION.

### *Capital of the Company.*

The capital of the company is dollars divided into shares of dollars each.

### *Application of Table A.*

All the articles in table A in the schedule to *The Companies Ordinance* shall be deemed to be incorporated with these articles and to apply to the company.

We the several persons whose names and addresses are subscribed agree to take the number of shares in the capital of the company set opposite our respective names.

| Names, addresses and description of subscribers. | Number of shares taken by subscribers. |
|---|---|
| 1. John Smith, of , merchant | 1 |
| 2. John Jones, of , " | 5 |
| 3. Thomas Green, of , " | 2 |
| 4. John Thompson, of , " | 2 |
| 5. Caleb White, of , " | 3 |
| Total shares taken | 13 |

Dated the day of 190 .

Witness to the above signatures—
*A. B.*, of

1901, c. 20.

Second schedule Form E

1901 c. 20

## FORM E as required by the Second Part of the Ordinance.

SUMMARY OF CAPITAL AND SHARES of the COMPANY made up to the day of

Nominal Capital $ , divided into shares of $ each
Number of shares taken up to the day of .
There has been called up on each share $
Total amount of calls received $ .
Total amount of calls unpaid $ .

List of persons holding shares in the Company on the day of and persons who have held shares thereon at any time during the year immediately preceding the said day of showing their names and addresses and an account of the shares so held.

| Folio in Register Ledger containing particulars | NAMES, ADDRESSES AND OCCUPATIONS | | | | ACCOUNT OF SHARES | | | | | Remarks |
|---|---|---|---|---|---|---|---|---|---|---|
| | Surname | Christian name | Address | Occupation | Shares held by existing members on the day of | Additional shares held by existing members during preceding year | | Shares held by persons no longer members | | |
| | | | | | | Number | Date of transfer | Number | Date of transfer | |
| | | | | | | | | | | |

# COMPANIES WINDING UP.

1903 Sess. 1 c 1

## An Ordinance respecting the voluntary winding up of Joint Stock Companies.

19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Companies Winding Up Ordinance 1903."* 1903, Sess. 1, c. 13, s. 1.

### INTERPRETATION.

Interpretation

**2.** Where the expressions following occur in this Ordinance they shall unless a contrary intention appears be construed as follows:

"Company"

1. "Company" shall mean any company or association to which this Ordinance is applicable;

"Court" Power of judge

2. "Court" shall mean the supreme court of the North-West Territories, and any judge of the court may at any time whether sitting in chambers or in court exercise all the powers conferred by this Ordinance upon the court;

"Contributory"

3. "Contributory" shall mean any person liable to contribute to the assets of a company under this Ordinance in the event of the same being wound up, and in all proceedings prior to the final determination of such persons any person alleged to be a contributory, and shall also include the personal representative or representatives of any such person;

"Extraordinary resolution"

4. "Extraordinary resolution" shall mean a resolution passed by a majority of not less than three-fourths of such members of the company for the time being entitled to vote as may be present in person, or by proxy in cases where the Ordinance or charter or instrument of incorporation or the regulations of the company proxies are allowed, at any general meeting of which notice specifying the intention to propose such resolution has been duly given;

"Special resolution"

5. "Special resolution" shall mean a resolution passed in the manner necessary for an extraordinary resolution where the resolution after having been so passed as aforesaid has been confirmed by a majority of such members entitled according to the Ordinance, charter or instrument of incorporation or the regulations of the company to vote as may be present, in person or by proxy, at a subsequent general meeting of which

notice has been duly given and held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which the resolution was first passed;

6. "Members" shall mean those persons only who for the time being are entitled to vote at general meetings of the company. 1903, Sess. 1, c. 13, s. 2. **"Members"**

APPLICATION OF ORDINANCE.

**3.** This Ordinance shall apply to all incorporated companies or associations incorporated by the Legislature of the Territories or under the authority of any Ordinance of the Territories. 1903, Sess. 1, c. 13, s. 3. **Application of Ordinance**

WHEN COMPANIES MAY BE WOUND UP.

**4.** A company may be wound up under this Ordinance:

1. Where the period, if any, fixed for the duration of the company by the Ordinance, charter or instrument of incorporation has expired: or where the event, if any, has occurred upon the occurrence of which it is provided by the Ordinance or charter or instrument of incorporation that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up: **When companies may be wound up voluntarily**

2. Where the company has passed a special resolution requiring the company to be wound up: **On special resolution**

3. Where the company though it may be solvent as respects creditors has passed an extraordinary resolution to the effect that it has been proved to the satisfaction of the members thereof that the company cannot by reason of its liabilities continue its business and that it is advisable to wind up the same. 1903, Sess. 1, c. 13, s. 4. **On extraordinary resolution**

**5.** Where no such resolution has been passed as mentioned in the next preceding section, the Court may, on the application of a contributory, make an order for winding up in case the court is of opinion that it is just and equitable that the company should be wound up. 1903, Sess. 1, c. 13, s. 5. **When by order of the court**

**6.** A winding up shall be deemed to commence at the time of the passing of the resolution authorising the winding up or the making of the order directing the winding up as the case may be. 1903, Sess. 1, c. 13, s. 6. **Commencement of winding up**

CONSEQUENCES OF COMMENCING TO WIND UP.

**7.** The following consequences shall ensue upon the commencement of the winding up of a company under the authority of this Ordinance: **Consequences of commencing to wind up**

Extent to which company to exist after commencement of winding up

1. The company shall, from the date of the commencement of the winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof; and any transfers of shares, except transfers made to or with the sanction of the liquidators, or any alteration in the status of the members of the company, after the commencement of the winding up, shall be void, but the corporate existence and all the corporate powers of the company shall, notwithstanding it may be otherwise provided by the Ordinance, charter or instrument of incorporation, continue until the affairs of the company are wound up;

Property of company

2. Subject to the provisions of section 10 hereof the property of the company shall be applied in satisfaction of its liabilities *pari passu;* and subject thereto and to the charges incurred in winding up its affairs shall, unless it is otherwise provided by the Ordinance, charter or instrument of incorporation, be distributed amongst the members according to their rights and interests in the company;

Appointment of liquidators

Remuneration

Security

3. The company in general meeting, or in default thereof the court, shall appoint such persons or person as the company or court thinks fit to be liquidators or a liquidator for the purpose of winding up the affairs of the company and distributing the property and may fix the remuneration to be paid to them or to him, and they or he shall give such security as the contributors or the court may determine;

One liquidator

4. If one person only is appointed liquidator all the provisions herein contained in reference to several liquidators shall apply to him;

Powers of directors to cease

5. Upon the appointment of liquidators all the powers of the directors shall cease except in so far as the company in general meeting, or the liquidators, may sanction the continuance of such powers;

Powers of several liquidators

6. Where several liquidators are appointed every power hereby given may be exercised by such one or more of them as may be determined at the time of the appointment, or at a subsequent meeting of the company, or in default of such determination, by any number of the liquidators not less than two;

Appointment of inspectors

Revocations

7. The members of the company may at any meeting appoint one or more inspectors to superintend and direct the proceedings of the liquidators in the management and winding up of the estate; and in case of an inspector or inspectors being appointed all the powers of the liquidator shall be exercised subject to the advice and direction of such inspector or inspectors; and the members of the company may also at any subsequent meeting held for that purpose revoke any such appointment; and upon such revocation or in case of death,

resignation or absence from the Territories of an inspector may appoint another in his stead; and such inspector may be paid such remuneration as the members of the company may determine;

**Remuneration**

**One inspector**

8. If one person only is appointed inspector or if by reason of death, resignation, absence from the Territories or otherwise there is only one inspector all the provisions herein contained in reference to inspectors shall apply to such sole inspector;

**Directions as to disposal of property of the company by liquidation**

9. The members of the company may at any meeting pass any resolution or order directing the liquidators how to dispose of the property, real or personal, of the comapany; and in default of their doing so the liquidators shall be subject to the directions, orders and instructions, which they from time to time receive from the inspectors, if any, with regard to the mode, terms and conditons on which they may dispose of the whole or any part of the property of the company. 1903, Sess. 1. c. 13, s. 7.

## GENERAL POWERS OF LIQUIDATORS.

**Description and general power of liquidator**

8. The liquidators may be described in all proceedings by the style of "A. B., and C. D., the liquidators of *(the particular company in respect of which they are appointed),*" and shall have power to do the following things:

**Bring actions**

1. To bring or defend any action, or other legal proceeding in the name and on behalf of the company;

**Carry on business**

2. To carry on the business of the company so far as may be necessary for the beneficial winding up of the same;

**Sell property**

3. To sell the real and personal property of the company by public auction or private contract, according to the ordinary mode in which such sales are made, with power to transfer the whole property to any person or company, or to sell the same in parcels, and on such terms as shall seem most advantageous; but no sale of the assets *en bloc,* shall be made without the previous sanction of the contributories given at a meeting called for that purpose;

**Sale of debts**

4. In case, after having acted with due diligence in the collection of the debts, the liquidators find that there remain debts due the attempt to collect which would be more onerous than beneficial to the estate, they shall report the same to the members of the company or inspectors, if any; and with their sanction the liquidators may sell the same by public auction after such advertisement thereof as the members of the company or the inspectors, if any, may order; and pending such advertisement the liquidators shall keep a list of the debts to

be sold, open to inspection at their office, and shall also give free access to all documents and vouchers explanatory of such debts; but all debts amounting to more than $100 shall be sold separately except as herein otherwise provided;

Draw, etc., bills and notes

5. To draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the company; and to raise upon the security of the assets of the company, from time to time, any requisite sum or sums of money; and the drawing, accepting, making or indorsing of such bill of exchange or promissory note on behalf of the company shall have the same effect with respect to the liability of the company as if such bill or note had been drawn, accepted, made or indorsed by or on behalf of the company in the course of carrying on the business thereof;

Take out letters of administration to estate of deceased contributories and collect debts

6. To take out, if necessary, in their official name, letters of administration to the estate of any deceased contributory; and to do in their official name any other act which may be necessary for obtaining payment of any money due from a contributory or from his estate, and which act cannot be conveniently done in the name of the company; and in all cases where the liquidators take out letters of administration, or otherwise use their official name for obtaining payment of any money due from a contributory, such money shall for the purpose of enabling them to take out such letters or recover such money be deemed to be due to the liquidators themselves;

Execute deeds

7. To execute in the name of the company all deeds, transfers, discharges, assignments, receipts and other documents;

Other things

Company's seal

8. To do and exercise all other acts and things that may be necessary for the winding up of the affairs of the company and the distribution of its assets; and for such purposes to use when necessary the company's seal. 1903, Sess. 1, c. 13, s. 8.

Time for creditors to send in claims may be fixed

**9.** The liquidators may fix a certain day on or before which creditors of the company and others having claims thereon are to send in their claims.

(2) Such day shall not be less than two months from the first publication of notice thereof.

Liquidators may distribute assets after expiration of time fixed

(3) Where liquidators have given notice of the said day by publication in an issue of a newspaper published at or nearest to the chief place of business of the company, in each of the first four weeks of said two months, the liquidator shall, at the expiration of the time named for sending in such claims, be at liberty to distribute the assets of the company, or any part thereof, amongst the parties entitled thereto having regard

to the claims of which the liquidators have then notice and the liquidators shall not be liable for the assets, or any part thereof, so distributed to any person of whose claim such liquidators had not notice at the time of distributing the said assets, or part thereof, as the case may be; but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow assets into the hands of the person who may have received the same. 1903, Sess. 1, c. 13, s. 9.

**Priority of wages or salary**

**10.** In distributing the assets of a company under the provisions of this Ordinance the liquidator shall pay in priority to the claims of the ordinary or general creditors of the company the wages or salary of all persons other than directors in the employment of the company at the time of the making of the winding up resolution or order, or within one month before the making thereof not exceeding three months wages or salary, and such persons shall be entitled to rank as ordinary or general creditors of the company for the residue, if any, of their claims. 1903, Sess. 1, c. 13, s. 10.

**Arrangements may be authorised with creditors**

**11.** The liquidators may, with the sanction of an extraordinary resolution of the company, or of the court, make such compromise or other agreement as they deem expedient, with any creditors, or persons claiming to be creditors, or persons having or alleging to have any claim, present or future, certain or contingent, ascertained or sounding only in damages, against the company, or whereby the company may be rendered liable. 1903, Sess. 1, c. 13, s. 11.

**Power to compromise with debtors and contributories**

**12.** The liquidators may, with the sanction of an extraordinary resolution of the company, or of the court, compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and any contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets of the company, or the winding up of the company, upon the receipt of such sums, payable at such times, and generally upon such terms as may be agreed upon; with power for the liquidators to take any security for the discharge of such debts or liabilities, and to give a complete discharge in respect of all or any such calls, debts or liabilities. 1903, Sess. 1, c. 13, s. 12.

**Take security**

# COMPANIES WINDING UP.

1903 Sess. 1 c. 1

## An Ordinance respecting the voluntary winding up of Joint Stock Companies.

19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Companies Winding Up Ordinance 1903."* 1903, Sess. 1, c. 13, s. 1.

### INTERPRETATION.

Interpretation

**2.** Where the expressions following occur in this Ordinance they shall unless a contrary intention appears be construed as follows:

"Company"

1. "Company" shall mean any company or association to which this Ordinance is applicable;

"Court" Power of judge

2. "Court" shall mean the supreme court of the North-West Territories, and any judge of the court may at any time whether sitting in chambers or in court exercise all the powers conferred by this Ordinance upon the court;

"Contributory"

3. "Contributory" shall mean any person liable to contribute to the assets of a company under this Ordinance in the event of the same being wound up, and in all proceedings prior to the final determination of such persons any person alleged to be a contributory, and shall also include the personal representative or representatives of any such person;

"Extraordinary resolution"

4. "Extraordinary resolution" shall mean a resolution passed by a majority of not less than three-fourths of such members of the company for the time being entitled to vote as may be present in person, or by proxy in cases where the Ordinance or charter or instrument of incorporation or the regulations of the company proxies are allowed, at any general meeting of which notice specifying the intention to propose such resolution has been duly given;

"Special resolution"

5. "Special resolution" shall mean a resolution passed in the manner necessary for an extraordinary resolution where the resolution after having been so passed as aforesaid has been confirmed by a majority of such members entitled according to the Ordinance, charter or instrument of incorporation or the regulations of the company to vote as may be present, in person or by proxy, at a subsequent general meeting of which

notice has been duly given and held at an interval of not less than fourteen days nor more than one month from the date of the meeting at which the resolution was first passed;

"Members"

6. "Members" shall mean those persons only who for the time being are entitled to vote at general meetings of the company. 1903, Sess. 1, c. 13, s. 2.

APPLICATION OF ORDINANCE.

Application of Ordinance

**3.** This Ordinance shall apply to all incorporated companies or associations incorporated by the Legislature of the Territories or under the authority of any Ordinance of the Territories. 1903, Sess. 1, c. 13, s. 3.

WHEN COMPANIES MAY BE WOUND UP.

**4.** A company may be wound up under this Ordinance:

When companies may be wound up voluntarily

1. Where the period, if any, fixed for the duration of the company by the Ordinance, charter or instrument of incorporation has expired; or where the event, if any, has occurred upon the occurrence of which it is provided by the Ordinance or charter or instrument of incorporation that the company is to be dissolved and the company in general meeting has passed a resolution requiring the company to be wound up;

On special resolution

2. Where the company has passed a special resolution requiring the company to be wound up;

On extraordinary resolution

3. Where the company though it may be solvent as respects creditors has passed an extraordinary resolution to the effect that it has been proved to the satisfaction of the members thereof that the company cannot by reason of its liabilities continue its business and that it is advisable to wind up the same. 1903, Sess. 1, c. 13, s. 4.

When by order of the court

**5.** Where no such resolution has been passed as mentioned in the next preceding section, the Court may, on the application of a contributory, make an order for winding up in case the court is of opinion that it is just and equitable that the company should be wound up. 1903, Sess. 1, c. 13, s. 5.

Commencement of winding up

**6.** A winding up shall be deemed to commence at the time of the passing of the resolution authorising the winding up or the making of the order directing the winding up as the case may be. 1903, Sess. 1, c. 13, s. 6.

CONSEQUENCES OF COMMENCING TO WIND UP.

Consequences of commencing to wind up

**7.** The following consequences shall ensue upon the commencement of the winding up of a company under the authority of this Ordinance:

Settlement of list by the court

**15.** The list of contributories may be settled by the court in which case the liquidators shall make out and leave at the chambers of the judge a list of the contributories of the company; and such list shall be verified by the affidavit of the liquidators or one of them and shall, so far as is practicable, state the respective addresses of and the number of shares or extent of interest to be attributed to each such contributory, and distinguish the several classes of contributories; and the list may from time to time by leave of the judge be varied or added to by the liquidators.

Procedure on settling list by the court

(2) Upon the list of contributories being left at the chambers of the judge, the liquidators shall obtain an appointment for the judge to settle the same, and shall give notice in writing of the appointment to every person included in the list, and stating in what character and for what number of shares, or interest, such person is included in the list; and in case any variation in or addition to the list is at any time made by the liquidators, a similar notice in writing shall be given to every person to whom the variation or addition applies; all such notices shall be served four clear days before the day appointed to settle such list, or such variation or addition.

Certificate of result of settlement

(3) The result of the settlement of the list of contributories shall be stated in a certificate by the clerk or registrar of the court; and certificates may be made from time to time for the purpose of stating the result of the settlement down to any particular time or to any particular person or stating any variation of the list. 1903, Sess. 1, c. 13, s. 15.

Provision for administration if personal representative fails to pay

**16.** If a person made a contributory as personal representative of a deceased contributory makes default in paying any sum to be paid by him proceedings may be taken for administering the estate of the deceased contributory and for compelling payment thereout of the money due. 1903, Sess. 1, c. 13, s. 16.

Calls on contributories

**17.** The liquidators may, at any time and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories, for the time being settled on the list of contributories, to pay, to the extent of their liability, all or any sums the liquidators deem necessary to satisfy the debts and liabilities of the company and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves; and the liquidators may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the same. 1903, Sess. 1, c. 13, s. 17.

### LIQUIDATORS' DUTIES.

Employment of counsel

**18.** Liquidators shall not employ any advocate without the consent of the inspectors or of the members of the company.

Liquidators or inspectors not to purchase assets of company

(2) No liquidator or inspector shall purchase, directly or indirectly any part of the stock in trade, debts or assets of any description of the estate.

Deposit in bank by liquidators

(3) The liquidators shall deposit at interest in some chartered bank to be indicated by the inspectors or by the court, all sums of money which they may have in their hands belonging to the company whenever such sums amount to $100.

Separate deposit account to be kept

(4) Such deposits shall not be made in the name of the liquidators generally, on pain of dismissal; but a separate deposit account shall be kept for the company of the moneys belonging to the company, in the name of the liquidators as such, and of the inspectors, if any; and such moneys shall be withdrawn only on the joint cheque of the liquidators and one of the inspectors, if there be any.

Withdrawal from account

Liquidators to produce bank pass book at meetings, etc.

(5) At every meeting of the members of the company the liquidators shall produce a bank pass book showing the amount of deposits made for the company, the dates at which the deposits were made, the amounts withdrawn and dates of such withdrawal; of which production mention shall be made in the minutes of the meeting, and the absence of such mention shall be *prima facie* evidence that the pass book was not produced at the meetings.

Liquidators to produce bank pass book when ordered

(6) The liquidators shall also produce the pass book whenever so ordered by the court at the request of the inspectors or a member of the company, and on their refusal to do so they shall be treated as being in contempt of court.

Liquidator and inspector to be subject to summary jurisdiction

(7) Every liquidator or inspector shall be subject to the summary jurisdiction of the court in the same manner and to the same extent as the ordinary officers of the court are subject to its jurisdiction; and the performance of his duties may be compelled, and all remedies sought or demanded for enforcing any claim for a debt, privilege, mortgage, lien or right of property upon, in or to any effects or property in the hands, possession or custody of a liquidator, may be obtained by an order of the court on summary application, and not by any action, attachment, seizure or other proceeding of any kind

Obedience how enforced

whatever; and obedience by a liquidator to such order may be enforced by the court under the penalty of imprisonment as for contempt of court or disobedience thereto; or he may be removed in the discretion of the court. 1903, Sess. 1, c. 13, s. 18.

### EXPENSES.

**Costs and expenses**

**19.** All costs, charges and expenses properly incurred in the winding up of a company, includidng the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims. 1903, Sess. 1, c. 13, s. 19.

**Remuneration of liquidators in case no other fixed**

**20.** In case of there being no agreement or provision fixing the remuneration of the liquidators they shall be entitled to a commission on the net proceeds of the estate of the company of every kind after deducting expenses and disbursements, such commission to be five per cent. on any amount realised not exceeding $1,000, the further sum of two and a half per cent. on any amount realised in excess of $1,000 and not exceeding $5,000, and a further sum of one and a quarter per cent. on any amount realised in excess of $5,000; which said commission shall be in lieu of all fees and charges for their services. 1903, Sess. 1, c. 13, s. 20.

### MEETINGS.

**Filling vacancies in office of liquidator**

**21.** If a vacancy in the office of liquidators appointed by the company occurs by death, resignation or otherwise, a general meeting for the purpose of filling up the vacancy may be convened by the liquidator or liquidators, if any, or if not, then by any member of the company.

**General meetings during winding up**

(2) The liquidators may from time to time, during the continuance of the winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or extraordinary resolution, or for any other purpose they think fit.

**Annual meetings**

(3) In the event of the winding up continuing for more than one year the liquidators shall summon a general meeting of the company at the end of the first year and of each succeeding year from the commencement of the winding up, or as soon thereafter as may be convenient; and shall lay before the meeting an account showing their acts and dealings and the manner in which the winding up has been conducted during the preceding year.

**Liquidators to call meetings of members of company**

(4) The liquidators shall also call meetings of the members of the company whenever required in writing so to do, by the

inspector or five members of the company or by the court, and they shall state succinctly in the notice calling any meeting the purpose thereof.

Subsequent meetings

(5) The members of the company may, from time to time at any meeting, determine where subsequent meetings shall be held and in the absence of such a resolution all meetings of the members of the company shall be held at the office of the liquidators or of the company, unless otherwise ordered by the court.

Where meetings to be held

One mode of giving notice of meeting

(6) Notice of any meeting shall for the purposes of this Ordinance be deemed to be duly given, and the meeting to be duly held, whenever the notice is given and meeting held in manner prescribed by the Ordinance, charter or instrument of incorporation or by the regulations of the company, or by the court; or notice of the meeting may be given by publication thereof for at least two weeks in the official gazette, or by such other or additional notice as the court, or the inspectors or the company may direct, and, except where the court otherwise directs, by addressing notices of the meeting to the contributories within the Territories, and to the representatives within the Territories of contributories who reside out of the Territories; and the notices shall be posted at least ten days before the day on which the meeting is to take place, the postage being prepaid by the liquidators.

Another mode of notice of meeting

Voting to be in person or by proxy

(7) No member of the company shall vote at any meeting unless present personally, or represented by some person having a written authority to be filed with the liquidators to act on his behalf at the meeting, or generally; and when a poll is taken reference shall be had to the number of votes to which each member is entitled by the Ordinance, charter or instrument of incorporation or the regulations of the company. 1903, Sess. 1, c. 13, s. 21.

### ASSISTANCE OF THE COURT.

Applications to the court

**22.** The liquidators or any member of the company may apply to the court to determine any question arising in the matter of the winding up; or to exercise all or any of the powers following; and the court, if satisfied that the determination of the question, or the required exercise of power, will be just and beneficial, may accede wholly or partially to the application on such terms and subject to such conditions as the court thinks fit; or it may make such other order on the application as the court thinks just.

Stay of action against company before order to wind up

(2) The court at any time after the issue of a summons for winding up a company and before making an order for winding up a company, may restrain further proceedings in any action or proceeding against the company other than under any other authority over which the Legislative Assembly of the Territories has no jurisdiction in and upon such terms as the court thinks fit.

y of action r commencement of winding up

(3) The court may make an order that no action or other proceedings shall be proceeded with or commenced against the company except with the leave of the court, and subject to such terms as the court may impose, and a copy of such order shall forthwith be advertised as the court may direct; but this subsection shall not apply to proceedings under any Act of the Parliament of Canada under its jurisdiction in matters of bankruptcy and insolvency or otherwise.

Settlement of list of contributories

(4) The court may settle the list of contributories.

Meetings of members of company may be ordered

Chairman

(5) The court may direct any meeting of the members of the company to be summoned, held and conducted in such manner as the court thinks fit for the purpose of ascertaining their wishes and may appoint a person to act as chairman of any such meeting and to report the result of such meeting to the court.

Order for delivery by contributories and others of property, etc

(6) The court may require any contributory for the time being settled on the list of contributories, or any trustee, receiver, banker or agent or officer of the company, to pay, deliver, convey, surrenderd or transfer forwthwith, or within such time as the court directs, to or into the hands of the liquidators, any sum or balance, books, papers, estate or effects which happen to be in his hands for the time being and to which the company is *prima facie* entitled.

Order for payment by contributories

(7) The court may make an order on any contributory for the time being settled on the list of contributories directing payment to be made, in manner in the order mentioned, of moneys due from him or from the estate of the person whom he represents, to the company, exclusive of moneys which he or the estate of the person whom he represents may be liable to contribute by virtue of any call made or to be made by the court in pursuance of this Ordinance.

Power to order payment into a bank to account of official liquidator

(8) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into any bank appointed for the purpose in any general order made under this Ordinance, or in default of such bank into a bank named in the order, or into a branch of such bank, to the account of the liquidators instead of to the liqui-

dators, and the order may be enforced in the same manner as if it had directed payment to the liquidators.

Order on contributory to be conclusive evidence except as to real estate of deceased

(9) An order made by the court in pursuance of this Ordinance upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due, or ordered to be paid, are due; and all other pertinent matters stated in the order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

Inspection of books

(10) The court may make such order for the inspection by the creditors and contributories of the company of its books and papers as the court thinks just; and any books and papers in the possession of the company may be inspected in conformity with the order of the court but not further or otherwise.

Examination of persons before court or liquidator

(11) The court may at any time after the commencement of the winding up of the company, summon to appear before the court or liquidators any officer of the company, or any other person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade dealings, estate or effects of the company; and in case of refusal to appear or answer the questions submitted he may be committed and punished by the judge as for a contempt.

Production of books, etc.

(12) The court may require any such officer or person to produce any books, papers, deeds, writings or other documents in his custody or power relating to the company.

Penalty on person summoned not attending

(13) If any person so summoned, after being tendered the fees to which a witness is entitled in the court, refuses to come before the court or liquidators at the time appionted, having no lawful impediment, the court may cause such person to be apprehended and brought before the court or liquidators for examination.

Mode of examination

(14) The court or liquidators may examine upon oath any person appearing or brought before them in the manner aforesaid concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every such person and require him to subscribe the same.

Subpoenas

(15) In any proceeding under this Ordinance the court may order a writ of *subpoena ad testificandum* or of *subpoena duces tecum* to issue commanding the attendance as a witness of any person within the limits of the Territories.

Liens

(16) Where any person claims a lien on papers, deeds or writings or documents produced by him such production shall be without prejudice to the lien; and the court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Power of court to assess damages against delinquent directors, etc.

(17) Where in the course of winding up a company under this Ordinance it appears that any past or present director, manager, liquidator or any officer of the company has misapplied or retained in his own hands or become liable or accountable for moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company the court may, on the application of a liquidator or of any contributory of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, liquidator or other officer, and compel him to repay the moneys so misapplied or retained, or for which he has become liable or accountable together with interest at such rate as the court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance or breach of trust, as the court thinks just. 1903, Sess. 1, c. 13, s. 22.

Proceedings by contributories at their own expense and for their own benefit only

**23.** If at any time a member of the company desires to cause any proceeding to be taken which, in his opinion, would be for the benefit of the company, and the liquidators, with or without the authority of the members of the company or of the inspectors, refuse or neglect to take such proceeding, after being duly required so to do, such member of the company shall have the right to obtain an order of the court, authorising him to take such proceeding in the name of the liquidators or company, but at his own expense and risk, upon such terms and conditions as to indemnity to the liquidators as the court may prescribe; and thereupon any benefit derived from such proceeding shall belong exclusively to the member of the company instituting the same, for his benefit and that of any other member of the company who may have joined him in causing the institution of such proceeding; but if, before such order is granted, the liquidators signify to the court their readiness to order shall be made prescribing the time within which they shall do so and in that case any advantage derived from such proceeding shall appertain to the company. 1903, Sess. 1, c. 13, s. 23.

Appointment by court

**24.** If from any cause there is no liquidator acting either provisionally or otherwise the court may, on the application dators, and the order may be enforced in the same manner as if it had directed payment to the liquidators.

Order on contributory to be conclusive evidence except as to real estate of deceased

(9) An order made by the court in pursuance of this Ordinance upon any contributory shall, subject to the provisions herein contained for appealing against such order, be conclusive evidence that the moneys, if any, thereby appearing to be due, or ordered to be paid, are due; and all other pertinent matters stated in the order are to be taken to be truly stated as against all persons and in all proceedings whatsoever.

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(11) The court may at any time after the commencement of the winding up of the company, summon to appear before the court or liquidators any officer of the company, or any other person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the court may deem capable of giving information concerning the trade dealings, estate or effects of the company; and in case of refusal to appear or answer the questions submitted he may be committed and punished by the judge as for a contempt.

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Mode of examination

(14) The court or liquidators may examine upon oath any person appearing or brought before them in the manner aforesaid concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every such person and require him to subscribe the same.

Subpœnas

(15) In any proceeding under this Ordinance the court may order a writ of *subpoena ad testificandum* or of *subpoena duces tecum* to issue commanding the attendance as a witness of any person within the limits of the Territories.

Dismissal of appeal

(3) If the party appellant does not proceed with his appeal according to the law or the rules of practice the court, on the application of the respondent, may dismiss the appeal and condemn the appellant to pay the respondent the costs by him incurred.

Judgment final

(4) The judgment of the court *en banc* on such appeal shall be final. 1903, Sess. 1, c. 13, s. 26.

Powers of court to be in addition to other powers

**27.** Any powers by this Ordinance conferred on the court shall be deemed to be in addition to any other power of instituting proceedings against any contributory, or against any debtor of the company for the recovery of any call or other sum due from such contributory or debtor, or his estate and such proceedings may be instituted accordingly. 1903, Sess. 1, c. 13, s. 27.

Enforcing of orders

**28.** All orders made by the court may be enforced in the same manner as orders of such court made in any action pending therein. 1903, Sess. 1, c. 13, s. 28.

### MATTERS OF PRACTICE.

Petition on winding up

**29.** Any applicant to the court for the winding up of a company under this Ordinance shall be by originating summons which may be issued at the instance of the company, or any contributory or contributories of the company and thereafter the matter shall proceed as a cause in court and be subject except where inconsistent herewith, to all the rules applicable to ordinary causes.

Course of court on hearing petition

(2) Upon hearing the summons the court may dismiss the same, with or without costs, or may adjourn the hearing conditionally or unconditionally, and may make an interim order, or any other order that it deems just. 1903, Sess. 1, c. 13, s. 29.

Stay of proceedings

**30.** The court, at any time after an order has been made for winding up a company, may, upon the application of any contributory, to be made by summons, and upon proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as the court deems fit. 1903, Sess. 1, c. 13, s. 30.

Rules of procedure in ordinary cases, etc., to apply

**31.** The rules of procedure for the time being as to amendments of pleadings and proceedings in the court shall, as far as practicable, apply to all pleadings and proceedings under this Ordinance; and any court before whom such proceedings are being carried on shall have full power and authority to apply the appropriate rules as to amendments to the proceedings so pending; and no pleading or proceeding shall be void by reason of any irregularity or default which can or may be amended or disregarded under the rules and practice of the court. 1903, Sess. 1, c. 13, s. 31.

Amendments

Books, etc., to be *prima facie* evidence

**32.** All books, accounts and documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded. 1903, Sess 1, c. 13, s. 32.

Affidavit, before whom sworn

**33.** Any affidavit, affirmation or declaration required to be sworn or made under the provisions or for the purposes of this Ordinance may be sworn or made before any person authorised to take affidavits for use in the supreme court of the North-West Territories. 1903, Sess. 1, c. 13, s. 33.

DISSOLUTION OF COMPANY.

Account of winding up to be made by liquidator to a general meeting

**34.** As soon as the affairs of the company are fully wound up the liquidators shall make up an account showing the manner in which the winding up has been conducted and the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidators; the meeting shall be called by advertisement specifying the time, place and object of such meeting; and the advertisement shall be published one month at least previously thereto.

Return of holding of meeting to be made to registrar of joint stock companies

Dissolution of company

(2) The liquidators shall make a return to the registrar of joint stock companies of such meeting having been held and of the date at which the same was held; which return shall be filed in his office; and on the expiration of three months from the date of the filing of such return the company shall be deemed to be dissolved. 1903, Sess. 1, c. 13, s. 34.

Order for dissolution

**35.** Whenever the affairs of the company have been completely wound up the court may, before the expiration of the said period of three months, make an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly; which order shall be reported by the liquidators to the registrar of joint stock companies. 1903, Sess. 1, c. 13, s. 35.

Report to the registrar

Penalty on default in reporting by liquidator or in making return

**36.** If the liquidators make default in transmitting to the registrar of joint stock companies the return mentioned in section 34 hereof, or in reporting the order, if any, declaring the company dissolved they shall be severally liable to a penalty not exceeding $20 for every day during which they are in default. 1903, Sess. 1, c. 13, s. 36.

Disposition of unclaimed dividends

**37.** All dividends deposited in a bank and remaining unclaimed at the time of the dissolution of the company shall be left for three years in the bank where they are deposited, and if still unclaimed shall then be paid over by such bank, with interest accrued thereon, to the territorial treasurer, and, if afterwards duly claimed, shall be paid over to the person entitled thereto upon satisfactory proof of his claim being made. 1903, Sess. 1, c. 13, s. 37.

Deposit by liquidator after dissolution of moneys with sworn statement

**38.** Every liquidator shall, within thirty days after the date of the dissolution of the company, deposit in the bank appointed or named as hereinbefore provided for, any other money belonging to the estate then in his hands not required for any other purpose authorised by this Ordinance, with a sworn statement and account of such money, and that the same is all he has in his hands; and he shall be subject to a penalty not exceeding $10 for every day on which he neglects or delays such payment; and he shall be a debtor to his Majesty for such money and may be compelled as such to account for and pay over the same.

Penalty on omission

Money to remain on deposit for three years

(2) The money so deposited shall be left for three years in the bank and shall be then paid over, with interest accrued thereon, to the territorial treasurer, and if afterwards claimed shall be paid over to the person entitled thereto upon satisfactory proof of his claim being made.

Disposal of books, etc., after winding up

(3) Where a company has been wound up under this Ordinance and is about to be dissolved the books, accounts and documents of the company and of the liquidators may be disposed of in such a way as the company by an extraordinary resolution directs.

After five years responsibility as to custody of books, etc., to cease

(4) After the lapse of five years from the date of such dissolution no responsibility shall rest on the company or liquidators, or any one to whom the custody of such books, accounts and documents has been committed, by reason that the same or any of them are not forthcoming to any party claiming to be interested therein. 1903, Sess. 1, c. 13, s. 38.

RULES OF COURT.

**39.** The supreme court or any three of the judges thereof, may, from time to time, make and frame and settle the forms, rules and regulations to be followed and observed in proceedings under this Ordinance, and may make rules as to costs, fees and charges which shall or may be had, taken or paid in all such cases by or to advocates or counsel, and by or to officers of the court, whether for the officers or for the Crown, and by or to sheriffs, or other persons whom it may be necessary to provide for, or for any service performed or work done under this Ordinance.

Judges to make rules and forms as to proceedings and costs, etc.

(2) Until such forms, rules and regulations are so approved, and subject to any which may be approved, the practice under this Ordinance shall, in cases not hereinbefore provided for, be the same, as nearly as may be, as under *The Winding Up Act,* and the rules of the said court made thereunder or applicable thereto. 1903, Sess. 1, c. 13, s. 39.

Practice till allowance of rules, etc.

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## COMPENSATION FOR DEATH OR INJURY.

*See* ACCIDENTS.
COMPENSATION TO FAMILIES.
WORKMEN'S COMPENSATION.

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## COMPENSATION TO FAMILIES.

### An Ordinance respecting Compensation to the Families of Persons Killed by Accidents.

C. O. 1898, c. 48
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** The following words and expressions shall have in this Ordinance the meanings hereby assigned to them respectively so far as such meanings are not excluded by the context or by the nature of the subject matter:

Interpretation

1. "Parent" shall include father, mother, grandfather, grandmother, stepfather, stepmother; and

"Parent"

2. "Child" shall include son, daughter, grandson, granddaughter, stepson, stepdaughter. C. O. 48, s. 1.

"Child"

post office at least ~~seven~~ ten days before the time when the said 8 ~~five~~ days will elapse addressed to the buyer or bailee or his successor in interest at his last known post office address in Canada. The said ~~five~~ 8 days or ~~seven~~ 10 days may be part of the twenty days mentioned in section 7 hereof. C. O. 44, s. 8.

Copies of instrument to be evidence

**9.** Copies of any instrument filed under this Ordinance certified by the registration clerk shall be received as *prima facie* evidence for all purposes as if the original instrument were produced and also as *prima facie* evidence of the execution of the original instrument according to the purport of such copy. And the clerk's certificate shall also be *prima facie* evidence of the date and hour of registration or filing. C. O. 44, s. 9.

Registration fees

**10.** The registration clerk shall be entitled to charge a fee of 25 cents for each registration; 10 cents for each search; 10 cents per 100 words for copies of documents and 25 cents for each certificate. C. O. 44, s. 10.

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## CONDITIONS OF INSURANCE.

*See* FIRE INSURANCE.
MUTUAL FIRE INSURANCE.

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## CONFIRMATION OF TAX SALES.

1901, c. 12

### An Ordinance respecting the Confirmation of Sales of Land for Taxes.

12 June, 1901

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

On application parties interested to have notice

**1.** No application for an order for confirmation of a sale of land for taxes made under the provisions of any Ordinance of the Territories shall be heard by a judge until all persons appearing by the records of the proper land titles office to have any interest in the said land have received notice of such application unless such notice is dispensed with by the judge.

(2) Such notice shall be given by summons of the judge obtained *ex parte* to be served in such manner as the judge

may direct and returnable in one month or such longer time as the judge may direct after service thereof. 1901, c. 12, s. 1.

Right to redeem

**2.** Any person interested in such land may at any time before the time of hearing such application redeem the said land by paying to the purchaser or his assignee the amount of the purchase money paid and any further sums charged against the said land and lawfully paid together with twenty per cent. thereon and such costs as the judge may allow.

(2) *Upon the return of any summons granted under the provisions of section 1 if it is made to appear to the judge that any person who is entitled and desires to redeem the said land has been unable to do so because of his inability to ascertain the proper amount to be paid to redeem the said land the judge may adjourn the hearing of the said application and may order an account to be taken or may give such other directions as to him shall seem meet.* 1901, c. 12, s. 2, and 1903, Sess. 1, c. 9, s. 1.

After redemption purchaser's interest to cease

**3.** From the time of payment to the purchaser or his assignee of the amounts mentioned in the next preceding section all right and interset of the purchaser in the said land shall cease and determine. 1901, c. 12, s. 3.

Transfer *prima facie* evidence

**4.** Subject to the foregoing provisions on any application for an order for such confirmation the production of a transfer of the said land executed by the proper officer shall be *prima facie* evidence that all conditions have existed and all acts been performed and all requirements of the Ordinances in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for.

When transfer conclusive evidence

(2) If such application be not made until after the expiration of one year from the date of the transfer such transfer shall be conclusive evidence that all conditions have existed and all acts been performed and all requirements of the Ordinances in that behalf been complied with necessary to entitle the applicant to the order of confirmation applied for except on one of the following grounds:

1. Fraud or collusion;
2. That all taxes have been paid;
3. That the land was not liable to assessment.

1901, c. 12, s. 4.

Repeal

**5.** Chapter 10 of the Ordinances of 1900 is hereby repealed. 1901, c. 12, s. 5.

# CONGREGATIONS.

*See* CHURCH LANDS.
RELIGIOUS CONGREGATIONS.
REAL PROPERTY.

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# CONSOLIDATED ORDINANCES 1898.

1898, No. 39

## An Ordinance respecting the Consolidated Ordinances of the Territories.

19 Sept., 1898

*(Assented to September 19, 1898.)*

Preamble

WHEREAS by a commission issued by the Lieutenant Governor in Council dated the first day of February, 1897, the Honourable Hugh Richardson, one of the Justices of the Supreme Court of the Territories; the Honourable Edward Ludlow Wetmore, one of the Justices of the Supreme Court of the Territories, and Charles Coursolles McCaul, Esquire, one of her Majesty's counsel learned in the law, were appointed commissioners for the purpose of consolidating the public Ordinances of the Territories; and

Whereas the said commissioners had prior to the passing of Ordinance No. 37 of 1897 completed the consolidation of the said Ordinances as they then existed; and

Whereas since the coming into force of the Ordinances of 1897 the said commissioners having proceeded to amend, vary and add to the said consolidation as far as such action was rendered necessary by the said Ordinances, have recommended that divers other changes in the law as it now exists and as it is declared by the Ordinances of the Territories, should be made before the said consolidation is completed and brought into force under the said Ordinance, with a view to the general improvement of the law of the Territories;

Therefore the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Original roll of Ordinances

**1.** The printed roll attested as that of the said Ordinances as they existed prior to the passing of the Ordinances of 1897, revised, classified and consolidated as aforesaid under the signature of His Honour the Lieutenant Governor and that of the clerk of the Legislative Assembly and deposited in the office of the clerk of the Legislative Assembly, shall be held to be the original thereof and to embody the several Ordinances and parts of Ordinances mentioned as to be repealed in the schedule II thereto annexed; but the headings in the body of the Ordinances and the references to former enactments at the foot of the several sections thereof form no part of the said Ordinances and shall be held to have been inserted for convenience of reference only and may be omitted or corrected.

**2.** The said commissioners are hereby empowered and authorised to proceed to the completion of the consolidation of all the public Ordinances of the Territories now in force and including all public Ordinances that may be passed at this present session of the Legislative Assembly by making such additions to, eliminations from, variations of and amendments in the said printed roll as may be necessary to complete the same as such consolidation. **Completion of consolidation**

(2) The commissioners shall add to said schedule II a list of such of the Ordinances and parts of Ordinances of the year 1897 and of this present session as may be incorporated by them in said consolidation.

**3.** In order to the proper completion of such consolidation the commissioners may, but without in any manner changing or affecting the legal effect of the said Ordinances, correct any misprint or error (whether of commission or omission) or any contradiction or ambiguity in the said roll or Ordinances and the commissioners may make such alterations in the language of the said roll or Ordinances as are requisite in order to preserve a uniform mode of expression and may make such minor amendments as are necessary to bring out more clearly what is deemed to be the intention of the Legislative Assembly or to reconcile seemingly inconsistent enactments or to correct clerical or typographical errors. **Powers of commission**

**4.** So soon as the said consolidation of such Ordinances and the said addition to the said schedule II have been completed the Lieutenant Governor may cause a correct roll thereof (which may be partly printed and partly written) attested under his signature and countersigned by the territorial secretary to be deposited in the office of the clerk of the Legislative Assembly which roll shall be held to be the original thereof and to embody the several Ordinances and parts of Ordinances mentioned as repealed in the amended schedule II thereto annexed; any marginal notes however and headings in the **Completed roll to be deposited with clerk of Legislative Assembly**

body of the Ordinances and references to former enactments being held to form no part of the said Ordinances but to be inserted for convenience of reference only.

Proclamation

5. The Lieutenant Governor after such deposit of the said last mentioned roll may by proclamation declare the day on, from and after which the same shall come into force and have effect as law by the designation of "*The Consolidated Ordinances of the Territories 1898.*"

Effect of proclamation

6. On and from such day the same shall accordingly come into force and effect by the said designation to all intents as though the same were expressly embodied in and enacted by this Ordinance to come into force and to have effect on and from such day; and on and from the same day all the enactments in the several Ordinances and parts of Ordinances in such amended schedule II mentioned so far as they relate to the Territories shall stand and be repealed to the extent mentioned in the said schedule save only as hereinafter is provided.

Saving as to transactions, etc., anterior to the repeal

7. The repeal of the said Ordinances and parts of Ordinances shall not revive any Ordinance or provision of law repealed by them; nor shall the said repeal prevent the effect of any saving clause in the said Ordinances and parts of Ordinances or the application of any of the said Ordinances or parts of Ordinances or of any Ordinance or provision of law formerly in force to any transaction, matter or thing anterior to the said repeal to which they would otherwise apply.

Matters not affected by repeal

8. The repeal of the said Ordinances and parts of Ordinances shall not affect:

(*a*) Any penalty, forfeiture or liability incurred before the time of such repeal or any proceedings for enforcing the same had, done, completed or pending at the time of such repeal;

(*b*) Any action, suit, judgment, decree, certificate, execution, process, order, rule or any proceeding, matter or thing whatever respecting the same, had, done, made, entered, granted, completed, pending, existing or in force at the time of such repeal;

(*c*) Any act, deed, right, title, interest, grant, assurance, descent, will, registry, bylaw, rule, regulation, proclamation, contract, lien, charge, status, capacity, immunity, matter or thing had, done, made, acquired, established or existing at the time of such repeal;

(*d*) Any office, appointment, commission, salary, allowance, security or duty or any matter or thing appertaining thereto at the time of such repeal;

(*e*) Any marriage certificate or registry thereof lawfully had, made, granted or existing before or at the time of such repeal.

(2) Nor shall such repeal defeat, disturb, invalidate or prejudicially affect any other matter or thing whatsoever had, done, completed, existing or pending at the time of such repeal; but every such:

(*a*) Penalty, forfeiture and liability;

(*b*) Action, suit, judgment, decree, certificate, execution, prosecution, process, order, rule, proceeding, matter or thing;

(c) Act, deed, right, title, interest, grant, assurance, descent, will, registry, bylaw, rule, regulation, proclamation, contract, lien, charge, status, capacity, immunity, matter or thing;

(*d*) Office, appointment, commission, salary, allowance, security or duty;

(*e*) Marriage certificate and registry thereof, and every such other matter and thing, and the force and effect thereof respectively;

may and shall remain and continue as if no such repeal had taken place and so far as necessary may and shall be continued, prosecuted, enforced and proceeded with under the said Consolidated Ordinances of the Territories and other Ordinances and laws having force in the Territories so far as applicable thereto and subject to the provisions of the said several Ordinances and laws.

**Consolidated Ordinances not to be deemed new law**

**9.** The said Consolidated Ordinances of the Territories shall not be held to operate as new laws but shall be construed and have effect as a consolidation of the law as contained in the said Ordinances and parts of Ordinances so repealed and for which the said Consolidated Ordinances of the Territories are substituted; and the Legislative Assembly is not to be deemed to have adopted the construction which may by judicial decision or otherwise have been placed upon the language of any of the Ordinances included amongst the said Consolidated Ordinances of the Territories.

**Construction where the same in effect as the repealed Ordinances**

(2) The various provisions in the Consolidated Ordinances corresponding to and substituted for the provisions of the Ordinances and parts of Ordinances so repealed shall, where

they are the same in effect as those of Ordinances and parts of Ordinances so repealed, be held to operate retrospectively as well as prospectively and to have been passed upon the days respectively upon which the Ordinances and parts of Ordinances so repealed came into effect.

Construction in case they differ from the repealed Ordinances

(3) If upon any point the provisions of the said Consolidated Ordinances are not in effect the same as those of the repealed Ordinances and parts of Ordinances for which they are substituted then as respects all transactions, matters and things subsequent to the time when the said Consolidated Ordinances take effect the provisions contained in them shall prevail but as respects all transactions, matters and things anterior to the said time the provisions of the said repealed Ordinances and parts of Ordinances shall prevail.

Reference to repealed Ordinances in former Ordinances

**10.** Any reference in any former Ordinance remaining in force or in any instrument or document to any Ordinance or enactment so repealed shall after the Consolidated Ordinances take effect be held as regards any subsequent transaction, matter or thing to be a reference to the enactments in the Consolidated Ordinances having the same effect as such repealed Ordinance or enactment.

Effect of insertion of an Ordinance in schedule II

**11.** The insertion of any such Ordinance in the said schedule II shall not be construed as a declaration that such Ordinance or any part of it was or was not in force immediately before the coming into force of the said Consolidated Ordinances.

Copies printed by Queen's Printer to be evidence

**12.** Copies of the Consolidated Ordinances printed by the Queen's printer from the amended roll so deposited shall be received as evidence of the said Consolidated Ordinances in all courts and places whatsoever.

Distribution of copies

**13.** The Consolidated Ordinances shall be distributed in such numbers and to such persons only as the Lieutenant Governor in Council may direct.

This Ordinance to be printed with Consolidated Ordinances

**14.** This Ordinance shall be printed with the said Consolidated Ordinances and shall be subject to the same rules of construction as the said Consolidated Ordinances.

Citation of Consolidated Ordinances

**15.** Any chapter of the said Consolidated Ordinances may be cited and referred to in any Ordinance or proceeding whatever either by its title as an Ordinance or by its short title or by using the expression "The Consolidated Ordinance respecting—" (*adding the remainder of the title at the beginning of the particular chapter*), or by using the expression "The Consolidated Ordinances 1898, chapter (*adding the number of the particular chapter printed in the copies printed by the Queen's printer*).

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## CONSTABLES.

### An Ordinance respecting Constables.

C.O. 1898, c. 33
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Justices may appointed constables

**1.** Any justice of the peace may in writing appoint one or more constables whose powers and duties as such shall extend to the whole of the Territories; such appointment to be in force for the time mentioned in the appointment but shall at no time be longer in force than until the thirty-first day of December then next following the date of such appointment or until any process on the said thirty-first day of December in his hands be executed. C. O. 33, s. 1.

Duration of office

Oath

**2.** Every constable so appointed shall before entering upon the duties of his office take and subscribe before a justice of the peace the following oath:

I, having been appointed constable for the North-West Territories do solemnly swear that I will truly, faithfully and impartially perform the duties appertaining to the said office according to the best of my skill and ability. So help me God. C. O. 33, s. 2.

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## CONSTITUTIONAL QUESTIONS.

### An Ordinance for expediting the decision of Constitutional and other Legal Questions.

1901, c. 11

[*Assented to May 22, 1901.*]

22 May, 1901

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Reference to court authorised**

**1.** The Lieutenant Governor in Council may refer to the supreme court of the Territories for hearing or consideration any matter which he thinks fit to refer and the court shall thereupon hear or consider the same. 1901, c. 11, s. 1.

**Court to certify opinion**

**2.** The court is to certify to the Lieutenant Governor in Council its opinion on the question referred with the reasons therefor which are to be given in like manner as in the case of a judgment in an ordinary action; and any judge who differs from the opinion of the majority may in like manner certify his opinion with his reasons therefor to the Lieutenant Governor in Council. 1901, c. 11, s. 2.

**Notice to Attorney General of Canada**

**3.** In case the matter relates to the constitutional validity of any Ordinance which has heretofore been or shall hereafter be passed by the Legislative Assembly or of some provision in any such Ordinance the Attorney General of Canada shall be notified of the hearing in order that he may be heard if he sees fit. 1901, c. 11, s. 3.

**Notice to persons interested**

**4.** The court shall have power to direct that any person interested or where there is a class of persons interested any one or more persons as representatives of such class shall be notified of the hearing and such persons shall be entitled to be heard. 1901, c. 11, s. 4.

**Appointment of counsel to argue case for unrepresented interests**

**5.** Where any interest affected is not represented by counsel the court may in its discretion request counsel to argue the case in such interest and reasonable expenses thereof shall be paid out of the general revenue fund. 1901, c. 11, s. 5.

**Appeal**

**6.** The opinion of the court shall be deemed a judgment of the court and an appeal shall lie therefrom as in the case of a judgment in an action. 1901, c. 11, s. 6.

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# CONSTRUCTION OF CHIMNEYS.

**C.O. 1898, c. 89**
**15 March, 1899**

## An Ordinance respecting the Construction of Chimneys.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Chimneys**

**1.** No person shall construct or use a chimney in any portion of the Territories unless the same be constructed of walls of stone or brick and mortar, concrete or clay at least four inches thick and projecting at least three feet above the roof of the building wherein the same is or is to be used; or where stove pipes pass through a roof they must be firmly secured, the wood be cut away at least three inches from and around the pipe and protected by sheet iron, tin or zinc or pass through a safe the same as ceiling as hereinafter mentioned. C. O. 88, s. 1.

Stove pipes

**2.** When stove pipes in any buildings lead through partitions, floors or ceilings the same shall be encased in solid brick and mortar, concrete or clay so that at every point there shall be at least four clear inches between such pipe and any wood work or within metallic cylinders or stove pipe safes giving at least one inch and three-fourths air space all around on every side. C. O. 88, s. 2.

Stove pipe passing through partitions

**3.** Any person violating the provisions of this Ordinance shall be subject to a fine on summary conviction not exceeding $50 and costs of prosecution. C. O. 88, s. 3.

Penalty

**4.** The provisions of this Ordinance shall not apply to farms, houses or buildings ten chains distant from one another and shall not apply to municipalities which have provided for the subject matter thereof. C. O. 88, s. 4.

Exceptions

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## CONTAGIOUS DISEASES.

*See* PUBLIC HEALTH.
MUNICIPAL.
VILLAGES.

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## CONTROVERTED ELECTIONS.

### An Ordinance respecting Controverted Elections.

C.O. 1898, c. 4
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

**1.** This Ordinance may be cited as *"The Controverted Elections Ordinance."* C. O. 4, s. 1.

Short title

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Judge"

1. The expression "the judge" shall mean the judge of the Supreme Court of the North-West Territories usually exercising jurisdiction in the judicial district in which a petition is filed as hereinafter provided; but any other judge of the said court may (if for any cause it is deemed expedient or necessary that he should act) perform any of the duties or exercise any of the functions herein prescribed for the judge;

"Clerk"

2. The expression "the clerk" shall mean the clerk of the said court for the said judicial district. C. O. 4, s. 2.

### PETITIONS.

Time for election petition

Who may petition

**3.** At any time within one month after the publication by the clerk of the Executive Council of the notice prescribed by section 119 of *The Territories Elections Ordinance* any defeated candidate or any duly qualified elector of the electoral district in which the election was held may petition against the undue return or undue election of any candidate at such election. C. O. 4, s. 3.

Form of petition

Filing

**4.** Such petition may be in form A in the schedule hereto; and shall within the time prescribed by the last preceding section be filed in the office of the clerk of the Supreme Court of the North-West Territories for the judicial district in which such electoral district or the largest part thereof is situated, and shall contain the following statements:

(*a*) The right of the petitioner to petition;

(*b*) The holding and result of the election in general terms;

(*c*) In a brief form the facts and grounds relied on to sanction the prayer;

and such petition shall conclude with a prayer that the election may be declared void and set aside, and it also may contain a prayer that some other candidate at the election than the one certified to be elected was duly elected. C. O. 4, s. 4.

### SECURITY FOR COSTS.

Petitioner to give security for costs

**5.** The petitioner shall at the time he files such petition deposit with the said clerk the sum of $500 in current bank notes of the Dominion of Canada or other current money as security for the respondent's costs of and incidental to the said petition and the proceedings thereunder. C. O. 4, s. 5.

### SERVICE OF PETITION.

**6.** A copy of such petition shall be served on the candidate against whom such petition is filed (herein called the respondent) within twenty days after the same is so filed; and such service may be effected in the way that service of a writ of summons in an ordinary civil action in the said court is effected. C. O. 4, s. 6. **Respondent to be served with copy of petition**

**7.** Upon the judge being satisfied by affidavit either before or after the time hereinbefore limited for the service of a copy of the petition that every reasonable effort has been made to effect such service and that such service has not been effected, he may *ex parte* extend the time for effecting such service for a period not exceeding ten days and so from time to time until such service has been effected; or the judge may in such case make an *ex parte* order for substitutional service of such petition in such manner as he may direct. C. O. 4, s. 7. **Extension of time for service** **Substitutional service**

### ADDRESS FOR SERVICE.

**8.** The petitioner shall indorse on the petition filed with the clerk and on the copy thereof served on the respondent an address for service (which shall not be more than three miles from such clerk's office) at which all summonses, notices, demands and other papers in the proceedings may be served on him and in default of so doing such summonses, notices, demands and other papers in the proceedings may be served on him by being filed with the clerk. C. O. 4, s. 8. **Petitioner to indorse address for service on petition**

**9.** The respondent shall within ten days after being served with a copy of the petition as hereinbefore provided file with the clerk a notice in writing specifying an address for service not more than three miles from such clerk's office at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands or other papers may be served on him by being filed with the clerk. C. O. 4, s. 9. **Respondent to file notice of address for service**

### PRELIMINARY OBJECTIONS.

**10.** The respondent may at any time within twenty days after the service upon him of the petition apply to the judge to set such petition aside and have it removed from the files of the court on any of the following grounds: **Respondent may apply to have petition set aside**

(*a*) That the petitioner is not qualified to file a petition;

(*b*) That the petition was not filed within the prescribed time;

(*c*) That the deposit has not been made as provided in section 5 hereof;

(*d*) That the petition does not on its face disclose sufficient grounds or facts to have the election set aside or declared void;

(*e*) That service of a copy of such petition has not been made on him as herein prescribed;

and the judge may (if satisfied that the application is well founded) order the petition to be set aside and removed from the files of the court with or without costs as he may direct; or (if not satisfied) may dismiss the application with or without costs as aforesaid. C. O. 4, s. 10.

### PARTICULARS.

**Respondent may apply for further particulars**

**11.** Evidence need not be stated in the petition but the respondent may at any time within twenty days after service upon him of the petition (unless he makes an application under the last preceding section, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial; and may prescribe the time within which such particulars shall be delivered; and may in such order direct that in case such particulars are not delivered as prescribed the petitioner shall not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered. C. O. 4, s. 11.

### PETITION CLAIMING SEAT, OBJECTIONS.

**Respondent may file statement of objections if seat claimed for other than returned candidate**

**12.** If the petitioner claims the seat for any other candidate than the one certified to be elected the respondent may within twenty days after service upon him of the petition (unless he applies to set aside the petition under section 10 hereof, and if he does then within ten days after such application is disposed of if it is refused or dismissed) file with the clerk a statement in form B in the schedule herto, claiming that the seat ought not to be awarded to the candidate for whom it is so claimed because:

(*a*) He is not qualified to be elected a member of the Legislative Assembly of the Territories;

### SERVICE OF PETITION.

**Respondent to be served with copy of petition**

**6.** A copy of such petition shall be served on the candidate against whom such petition is filed (herein called the respondent) within twenty days after the same is so filed; and such service may be effected in the way that service of a writ of summons in an ordinary civil action in the said court is effected. C. O. 4, s. 6.

**Extension of time for service**

**7.** Upon the judge being satisfied by affidavit either before or after the time hereinbefore limited for the service of a copy of the petition that every reasonable effort has been made to effect such service and that such service has not been effected, he may *ex parte* extend the time for effecting such service for a period not exceeding ten days and so from time to time until such service has been effected; or the judge may in such case make an *ex parte* order for substitutional service of such petition in such manner as he may direct. C. O. 4, s. 7.

**Substitutional service**

### ADDRESS FOR SERVICE.

**Petitioner to indorse address for service on petition**

**8.** The petitioner shall indorse on the petition filed with the clerk and on the copy thereof served on the respondent an address for service (which shall not be more than three miles from such clerk's office) at which all summonses, notices, demands and other papers in the proceedings may be served on him and in default of so doing such summonses, notices, demands and other papers in the proceedings may be served on him by being filed with the clerk. C. O. 4, s. 8.

**Respondent to file notice of address for service**

**9.** The respondent shall within ten days after being served with a copy of the petition as hereinbefore provided file with the clerk a notice in writing specifying an address for service not more than three miles from such clerk's office at which all summonses, notices, demands and other papers in the proceedings may be served on him; and in default of so doing such summonses, notices, demands or other papers may be served on him by being filed with the clerk. C. O. 4, s. 9.

### PRELIMINARY OBJECTIONS.

**Respondent may apply to have petition set aside**

**10.** The respondent may at any time within twenty days after the service upon him of the petition apply to the judge to set such petition aside and have it removed from the files of the court on any of the following grounds:

(*a*) That the petitioner is not qualified to file a petition;

(*b*) That the petition was not filed within the prescribed time;

*(c)* That the deposit has not been made as provided in section 5 hereof;

*(d)* That the petition does not on its face disclose sufficient grounds or facts to have the election set aside or declared void;

*(e)* That service of a copy of such petition has not been made on him as herein prescribed;

and the judge may (if satisfied that the application is well founded) order the petition to be set aside and removed from the files of the court with or without costs as he may direct; or (if not satisfied) may dismiss the application with or without costs as aforesaid. C. O. 4, s. 10.

PARTICULARS.

**Respondent may apply for further particulars**

**11.** Evidence need not be stated in the petition but the respondent may at any time within twenty days after service upon him of the petition (unless he makes an application under the last preceding section, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on to sustain the prayer of the petition; and the judge may order such particulars as may be necessary to prevent surprise and to ensure a fair and effectual trial; and may prescribe the time within which such particulars shall be delivered; and may in such order direct that in case such particulars are not delivered as prescribed the petitioner shall not be at liberty to give any evidence at the trial with respect to facts and grounds of which particulars are ordered and not delivered. C. O. 4, s. 11.

PETITION CLAIMING SEAT, OBJECTIONS.

**Respondent may file statement of objections if seat claimed for other than returned candidate**

**12.** If the petitioner claims the seat for any other candidate than the one certified to be elected the respondent may within twenty days after service upon him of the petition (unless he applies to set aside the petition under section 10 hereof, and if he does then within ten days after such application is disposed of if it is refused or dismissed) file with the clerk a statement in form B in the schedule herto, claiming that the seat ought not to be awarded to the candidate for whom it is so claimed because:

*(a)* He is not qualified to be elected a member of the Legislative Assembly of the Territories;

(*b*) He at the election in question was guilty of some act or acts in contravention of sections 123, 124 or 125 of *The Territories Elections' Ordinance;*

and serve a copy of such statement on the petitioner. C. O. 4, s. 12.

### SETTING ASIDE OBJECTIONS.

**Petitioner may apply to have statement of objections set aside**

**13.** The petitioner within ten days after service upon him of the said statement may apply to the judge to set such statement aside and have it removed from the files of the court on any of the following grounds:

(*a*) That it was not filed within the prescribed time;

(*b*) That it was not served on him as herein prescribed;

(*c*) That it does not on its face disclose sufficient grounds to have the election declared void as against the candidate for whom the seat is claimed;

(*d*) That the petition does not claim the seat for any other candidate;

or if the statement is not served on the petitioner as herein directed he may apply at any time to have it set aside and removed from the files of the court; and the judge may (if satisfied that any application under this section is well founded) order such statement to be set aside and removed from the files of the court with or without costs as he may direct; and if not so satisfied he shall dismiss the application with or without costs as he may direct. C. O. 4, s. 13.

### EVIDENCE, PARTICULARS

**Petitioner may apply for further particulars**

**14.** Evidence need not be stated in such statement but the petitioner may at any time within ten days after service upon him of the said statement (unless he makes an application under section 13 hereof to set the statement aside, and if he does then within five days after such application is disposed of if it is refused or dismissed) apply to the judge for particulars or for further and better particulars of the facts and grounds relied on for the claim that the seat ought not to be awarded to the candidate for whom it is claimed in the petition; and the judge may order such particulars as may be necessary to prevent surprise and to insure a fair and effectual trial in the same manner and with the same consequence as prescribed in section 11 hereof. C. O. 4, s. 14.

### PETITIONS AT ISSUE.

**Petition when at issue**

**15.** If the said petition is not ordered to be set aside and taken off the files of the court the same shall be deemed to be at issue when all other orders (upon applications hereinbefore authorised to be made) by the judge have been made whether granting or refusing such applications or when the time for making such applications has expired if no such applications have been made. C. O. 4, s. 15.

**Application of respondent for time and place of trial**

**16.** At any time after the said petition is at issue the petitioner may apply to the judge to appoint a time and place for the trial of the petition; and the judge (on being certified that the petition is at issue) shall appoint a time and place for such trial. C. O. 4, s. 16.

**Application of respondent for dismissal of petition**

**17.** If the petitioner does not within one month after the petition is at issue apply to the judge to appoint a time and place for the trial of the petition the respondent may apply to the judge to dismiss the petition; and the judge may thereupon at the return of the summons (if the application is properly made) either dismiss the petition with costs or appoint a time and place for the trial of the petition. C. O. 4, s. 17.

### GENERAL.

**Petition and proceedings thereunder deemed cause in court**

**18.** The said petition and all proceedings thereunder shall be deemed to be a cause in the court in which the said petition is filed, and all the provisions of *The Judicature Ordinance* in so far as they are applicable and not inconsistent with the provisions of this Ordinance shall be applicable to such petition and proceedings; and the tariff of costs for clerks, sheriffs, advocates and interpreters (whether prescribed by *The Judicature Ordinance* or under its authority) shall be applicable to such proceedings. C. O. 4, s. 18.

**Applications to judge in chambers**

**19.** Applications to the judge shall be made in chambers and unless authorised to be made *ex parte* shall be made by summons. C. O. 4, s. 19.

### TRIAL.

**Trial**

**20.** The judge shall attend at the time and place appointed for the trial and try the matters of the said petition and arising thereout; and such place of trial shall be an open court at which the usual officers of the court shall attend and perform their respective duties as in the case of any other trial in the said court; and such trial may be adjourned from day to day or for such further time as the judge may direct. C. O. 4, s. 20.

### JUDGE'S REPORT.

**Judge to report to clerk of Executive Council**

**21.** If the judge on such trial finds that the respondent was unduly returned or elected a member of the Legislative

Assembly by reason of any of the matters alleged in the petition he shall forthwith after the expiration of fourteen days from delivering his judgment (unless his judgment is appealed and application is made for a stay as hereinafter provided) report such finding to the clerk of the Executive Council; and shall certify in such report for what cause he finds that the respondent was unduly returned or elected; and if the seat is by the petition claimed for another candidate than the respondent and the judge finds at such trial that such other candidate is entitled to the seat, he shall so certify in the said report to the said clerk of the Executive Council and thereupon such other candidate shall be entitled to the seat in the place and stead of the respondent; but the judge shall not so find or certify that such other candidate is entitled to the seat under any circumstances if he finds that he is not qualified by law to be a member of such Assembly or that at the election in question he was guilty of any acts in contravention of sections 123, 124 or 125 of *The Territories Elections Ordinance*, provided that such want of qualification or acts (as the case may be) have been charged against such candidate in a statement filed under the provisions of section 12 hereof.

(2) If the judge does not in such report certify that another candidate is entitled to the seat the election shall be void and set aside and a writ of election shall be issued to fill the vacancy so created. C. O. 4, s. 21.

Dismissal of petition

**22.** If the judge at the trial finds that the matters set forth in the petition are not proved to his satisfaction he shall dismiss the petition. C. O. 4, s. 22.

WITHDRAWAL OF PETITIONS.

Withdrawal of petition

**23.** The petitioner may at any time withdraw his petition by filing with the clerk a statement in writing that he so withdraws it and serving the respondent with a notice of such withdrawal; and in such case the judge shall on application order the petitioner to pay the respondent's costs of and incidental to the petition and the proceedings thereunder. C. O. 4, s. 23.

Withdrawal of statement by respondent

**24.** The respondent may at any time withdraw any statement filed by him under section 12 hereof by filing with the clerk a statement that he so withdraws it and serving the petitioner with a notice of such withdrawal; and in such case the judge shall on application order the respondent to pay the petitioner's costs of and incidental to such statement. C. O. 4, s. 24.

### ADMISSION OF UNDUE ELECTION.

**Admission of undue election filed by respondent, election declared void**

**25.** Unless the seat is claimed for a candidate other than the respondent, the respondent may at any time admit that he was unduly returned or elected by filing with the clerk a statement in writing admitting such fact and serving the petitioner with a notice that such statement has been filed; whereupon the judge shall on application order the respondent to pay to the petitioner his costs of and incidental to the petition; and shall report to the clerk of the Executive Council that the respondent has admitted that he was unduly returned or elected; whereupon the election shall be void and set aside and a writ of election shall be issued to fill the vacancy so created. C. O. 4, s. 25.

### COSTS.

**Costs in discretion of judge**

**26.** Except when otherwise provided the costs of the petition and all matters incidental thereto and arising thereout shall be in the discretion of the judge. C. O. 4, s. 26.

**Judge may order costs to be paid out of security deposited**

**27.** If the judge at any time orders costs to be paid by the petitioner, he may (when the petition and all matters arising thereout have been finally determined and disposed of) order such costs to be paid out of the moneys deposited by the petitioner on filing the petition; but nothing in this section shall be construed as preventing the respondent from proceeding at any time to recover any costs that may have been awarded to him according to the ordinary practice of the court. C. O. 4, s. 27.

### APPEAL.

**Appeal to supreme court *en banc***

**28.** An appeal shall lie to the Supreme Court of the Territories sitting *en banc* from any order or determination of the judge; and such appeal shall be had and taken and all proceedings relating thereto shall be had and taken and the Supreme Court *en banc* shall deal with such appeal in the same manner as appeals and the proceedings thereunder are had, taken and dealt with under *The Judicature Ordinance.* C. O. 4, s. 28.

**Interlocutory appeals**

**Stay of proceedings**

**29.** If such appeal is from an order or determination other than any finding or determination under sections 21 or 22 hereof it shall not operate as a stay of proceedings unless so ordered by the judge; and the judge may for reasonable cause at any time set aside any stay of proceedings he may so order. C. O. 4, s. 29.

**30.** If such appeal is from any finding or determination under section 21 hereof the appellant shall (before the expiration of the fourteen days mentioned in that section) apply *ex parte* to the judge for a stay of proceedings; and the judge on being satisfied that notice of the appeal has been duly given shall make an order staying proceedings and shall not forward his report as provided in section 21 until the appeal is finally determined.

Stay of proceedings on appeal from final judgment

(2) The other party may apply to the judge at any time before the appeal is lodged with the registrar of the Supreme Court to have such stay set aside and the appeal quashed on the ground that the appeal is not being prosecuted with sufficient dispatch; and the judge may if satisfied that there has been undue delay in prosecuting such appeal set aside the stay of proceedings and quash the appeal and in that case shall forthwith forward his report to the clerk of the Executive Council as provided in section 21.

Application to remove stay for delay

(3) No order shall be made as provided in the preceding subsection if at the time of the application the appeal has been lodged with the said registrar. C. O. 4, s. 30.

**31.** When any appeal to the Supreme Court *en banc* is duly lodged with the registrar it shall be proceeded and dealt with according to the practice of such court in appeals in civil causes; and the adjudication and finding of such court on such appeal shall be duly certified by the registrar to the judge appealed from; and if the appeal is from any finding or determination of the judge under section 21 and such finding or determination is affirmed in whole or in part, the judge shall forthwith forward his report to the clerk of the Executive Council as provided in section 21 and as varied or modified by the order of the court *en banc* if so varied or modified. C. O. 4, s. 31.

Hearing and adjudication of appeals

Report to clerk of Executive Council

## BALLOTS NOT TO BE COUNTED.

**32.** Nothing in this Ordinance contained shall be construed to authorise the judge to count or recount the ballots cast at any election but the count of such ballots and the recount (if any) under *The Territories Elections Ordinance* shall be considered conclusive. C. O. 4, s. 32.

No count of ballots by judge

## SCHEDULE.

### FORM A.

In the Supreme Court of the North-West Territories.
Judicial District of

Between *A.B.*, Petitioner,
and
*C.D.*, Respondent.

The petition of *A.B.*, of *(stating petitioner's residence and occupation)* sheweth:

1. An election was held on the day of A.D. 1 *(state the date of the general polling day)* for the Electoral District of *(state the name of the electoral district)* at which *C.D.* and *E.F.* were candidates, and the said *C.D.* has been certified to be the person elected at such election.

2. The petitioner was a duly qualified elector at such election (*or* the petitioner was a defeated candidate at such election).

3. The petitioner says (*state here the facts and grounds on which the petitioner relies).*

Wherefore the petitioner prays that it may be declared that the election of the said *C.D.* is void and that it may be set aside and *(if the seat is claimed for another candidate)* that it may be declared that the said *E.F.* was duly elected.

Dated the day of A.D. 1
*A.B.*

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### FORM B.

In the Supreme Court of the North-West Territories.
Judicial District of

Between *A.B.*, Petitioner,
and
*C.D.*, Respondent.

The above named respondent, *C.D.*, says that the seat claimed in the petition herein for the said *E.F.*, ought not to be awarded to him because (*here state the grounds and facts on which the respondent relies).*

Dated the day of A.D. 1
*C.D.*

## COSTS.

*See* DISTRESS AND EXTRA JUDICIAL SEIZURE.
JUDICATURE.

## COURTS.

*See* SUPREME COURT.
JUSTICES OF THE PEACE.
POLICE MAGISTRATES.

## COURTS OF REVISION.

*See* ELECTIONS.
MUNICIPAL.
SCHOOL ASSESSMENT.
*Also Substituted Provision.*
LOCAL IMPROVEMENT.
VILLAGES.

## CORPORATIONS.

*See* COMPANIES.
MUNICIPAL.
SOCIETIES.

## CREDITORS.

*See* ASSIGNMENTS FOR CREDITORS.
PREFERENTIAL ASSIGNMENTS.
CREDITORS' RELIEF.

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# CREDITORS' RELIEF.

## An Ordinance to abolish Priority among Execution Creditors.

C. O. 1898, c. 26. 15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Creditors' Relief Ordinance.*" C. O. 26, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance the expression "sheriff" shall include deputy sheriffs, duly appointed bailiffs, coroners and any other person discharging the duties of sheriff in the particular Interpretation delivery of a writ of execution he has established a claim against the debtor either alone or jointly with some other creditor or creditors. C. O. 26, s. 6.

Full amount of execution paid without sale

**7.** In case the debtor without any sale by the sheriff pays the full amount owing in respect of the executions in the sheriff's hands at the time of such payment and no other execution has been placed in his hands or in case all executions in the sheriff's hands are withdrawn no notice shall be entered as required by section 3 of this Ordinance and no further proceedings shall be taken under this Ordinance against the debtor by virtue of the executions having been in the sheriff's hands.

Procedure where writ stayed

(2) Save as aforesaid after an execution has been filed with the sheriff the withdrawal or expiry of the writ upon which the proceedings are founded or any stay upon the writ or the satisfaction of the plaintiff's claim thereon or the setting aside or return of the writ shall not affect the proceedings to be taken under this Ordinance and except so far as the action taken in regard to the writ may affect the amount to be levied the sheriff shall proceed and levy upon the goods or lands of the debtor or both as he would have proceeded had the writ or writs remained in his hands in full force to be executed and may also take the like proceedings as he would have been entitled to take had the writ been a writ of *venditioni exponas*. C. O. 26, s. 7.

Fund in court belonging to execution debtor

**8.** Where there is in any court a fund belonging to an execution debtor and to which he is entitled the same or a sufficient part thereof to pay the executions in the sheriff's hands may on application of the sheriff or any party interested be paid over to the sheriff and the same shall be deemed to be money levied under execution within the meaning of this Ordinance. C. O. 26, s. 8.

One seizure sufficient, all executions sharing

**9.** One seizure by the sheriff of the goods and lands of the debtor shall be deemed sufficient and shall be deemed a seizure on behalf of all creditors sharing under such seizure as hereinbefore provided. C. O. 26, s. 9.

Sheriff entitled to single poundage only

**10.** Where money is to be distributed under this Ordinance the sheriff shall not be entitled to poundage as upon separate writs but only upon the net proceeds of the estate distributed by him and at the same rate as if the whole amount had been payable under one writ. C. O. 26, s. 10.

**11.** When money is made upon a writ the same shall be taken for the purposes of the sheriff's return and otherwise to be made upon all the writs entitled to the benefits thereof and the sheriff shall upon payment being made to the person entitled upon such writ indorse thereon a memorandum of the amount so paid but he shall not, except on the request of the party issuing the writ or by direction of the court out of which the same issued or of a judge of such court, return the writ until the same has been fully satisfied or unless the same has expired by effluxion of time in which case the sheriff shall make a formal return of the amount paid thereon.

Sheriff's return after levy

(2) The like proceedings may be taken to compel payment by the sheriff of money payable in respect of an execution or other claim as can now be had to compel the return by the sheriff of a writ of execution. C. O. 26, s. 11.

Compelling payment by sheriff

**12.** The sheriff shall pending the distribution of moneys levied keep in the said book mentioned in section 3 of this Ordinance a statement according to form B in the schedule hereto showing in respect of any debtor on whose property money has been levied the following particulars:

Sheriff to keep statement of particulars

(a) The amounts levied and the dates of levy;

(b) Each execution in his hands at the time of entering the notice form A required by section 3 hereof or subsequently received during the month, the amount thereof for debt and costs and the date of receipt and such statement shall be amended from time to time as an additional amount is levied or a new execution is received. C. O. 26, s. 12.

**13.** Where the money levied is insufficient to pay all claims in full and the sheriff is *bona fide* in doubt as to how the proceeds should be distributed or where any contest arises among the creditors as to the distribution of the proceeds among them or any other real difficulty arises as to such distribution the sheriff shall prepare a statement of the proceeds in his hands for distribution and the executions in his hands and the amount thereof and such other particulars as may be necessary to explain the contest or difficulty, to be verified by affidavit, and thereupon shall apply to a judge in chambers for a summons calling upon all parties interested to attend before the judge in chambers to settle a scheme of distribution and such summons shall be made returnable at such time and shall be served on such persons and in such manner and time as the judge may direct.

Questions as to distribution Scheme

Contestation

(2) The judge may determine any questions in dispute in a summary manner or may direct an issue or action for the trial thereof and may make such order as to costs of all proceedings as may be just.

(3) In case several creditors are interested in a contestation the judge shall give such directions for saving the expense of an unnecessary number of parties and trials or of unnecessary proceedings as may be proper and shall direct by whom and in what proportions costs incurred shall be paid and may make such costs a first charge on the moneys levied or otherwise direct that they shall be paid out of the said moneys or out of the share or shares of any one or more of the creditors interested in the same or by any party to such contestation. C. O. 26, s. 13.

Sheriff to give information

**14.** The sheriff shall at all times, without fee, answer any reasonable question which he may be asked orally in respect to the estate of the debtor by a creditor or any one acting on behalf of a creditor and shall facilitate the obtaining by him of full information as to the value of the estate and the probable dividend to be realised therefrom in his district or any other information in connection with the estate which the creditor may reasonably desire to obtain. C. O. 26, s. 14.

Undisposable money to be placed in bank

**15.** In case a sheriff has money in his hands which by reason of the provisions of this Ordinance or otherwise he cannot immediately pay over to the execution creditors he shall deposit the money in some incorporated bank designated for this purpose from time to time by order of the judge or where no such order is made then in some incorporated bank in which the public money of the judicial district is then being deposited and such deposit shall be made in the name of the sheriff in trust. C. O. 26, s. 15.

Irregularities not to void proceding

**16.** No proceeding under this Ordinance shall be void for any defect of form and the rules for amending or otherwise curing irregularities or defects which may from time to time be in force in the Supreme Court of the North-West Territories shall apply to this Ordinance and any proceedings wrongfully taken under this Ordinance may be set aside by the judge with or without costs as he may think fit. C. O. 26, s. 16.

When Ordinance inapplicable

**17.** The provisions of this Ordinance shall not apply to the proceeds of any seizure allowed under section 4 of chapter 27 of *The Consolidated Ordinances.* C. O. 26, s. 17.

**18.** All persons in the employment of an execution debtor at the time of the notice mentioned in subsection *(a)* of section 3 of this Ordinance or within one month before such notice, who shall become entitled to share in the distribution of money levied out of the property of a debtor, shall be entitled to be paid out of such money the wages or salary due to them by such judgment debtor, not exceeding one month's wages or salary, in priority to the claims of the other creditors of the execution debtor and shall be entitled to share *pro rata* with such other creditors as to the residue, if any, of their claim. C. O. 26, s. 18.

**Employee to have priority of claim**

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## SCHEDULE.

### FORM A.

### SHERIFF'S NOTICE.

Notice is hereby given that I have by virtue of certain executions delivered to me against the goods and chattels *(or* lands) of *C.D.,* levied and made out of the property of the said *C.D.* the sum of $

And notice is further given that this notice is first entered in my office on the day of 1 , and that unless otherwise ordered distribution of the said money will be made amongst the creditors of the said *C.D.* entitled to share therein at the expiration of two months from the day of 1 .

*T.G.*
*Sheriff.*

Dated, etc.

## FORM B,

### SHERIFF'S STATEMENT OF EXECUTIONS IN HAND AGAINST *C.D.*,

| Cause. | Proceeding. | Claim Without Costs. | Costs. | Date of Receipt by Sheriff. | Amount Levied | Date of Levy. |
|---|---|---|---|---|---|---|
| A.B. vs. C.D. | Fi-fa goods. | $504 | $30.00 | 18 Feb'y, 1893 | $500.00 | 1 May, 1893. |
| F.G. vs. C.D. and E.G. | Fi-fa lands | $400 | $20.00 | 30 Feb'y. 1893 | $200.00 | 3 May, 1893.<br>Nothing made against E.G. |

# DAIRY ASSOCIATIONS.

## An Ordinance respecting the Manufacture of Butter and Cheese.

C.O. 1898, c. 65
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The Dairymen's Ordinance."* C. O. 65, s. 1.

## PART I.

### ASSOCIATIONS FOR MANUFACTURE OF BUTTER AND CHEESE.

**Mode of incorporation**

**2.** Any five or more persons who desire to associate themselves together for the purpose of manufacturing butter or cheese or providing cold storage for the safe keeping therein of any farm product may make, sign and acknowledge before any person empowered to administer oaths or affidavits to be used in the Supreme Court of the Territories and file in the office of the Territorial secretary a declaration in writing in form A in the schedule hereto or to the same effect and such declaration shall state the name of one of the persons signing the same as having been appointed provisional secretary of the association. C. O. 65, s. 2.

**Restriction as to name of company**

**3.** No association under this part shall be incorporated under a name identical with that by which any other existing association has been registered or so nearly resembling such name as to be likely to deceive the public. C. O. 65, s. 3.

**Places of business to be stated**

**4.** Any declaration so to be filed shall designate any one or more places in the Territories where business is to be carried on. C. O. 65, s. 4.

**Corporate powers**

**5.** Upon the filing of the declaration the members of the association shall become a body corporate by the name therein described with power to purchase, hold, pledge or mortgage such lands as are required for the convenient management of their business with full power to do all necessary acts and enter into all necessary contracts for the purpose of managing and conducting their said business but no such declaration shall be filed unless shares to the extent of $1,000 have been subscribed by the persons signing such declaration and

**At least $1000 to be subscribe**

evidence of such subscription shall be filed with such declaration by statutory declaration of the provisional secretary in form B in the schedule hereto showing what amounts have been taken by the subscribers respectively and what amounts have been paid on account of their respective subscriptions and whether in cash or otherwise. C. O. 65, s. 5.

Certificate of filing declaration

**6.** The Territorial secretary shall indorse on a copy of the said declaration if sent or delivered to him for that purpose a certificate of the original having been filed in his office with the date of filing and every such declaration with such certificate signed by the Territorial secretary shall be *prima facie* evidence of the facts stated therein and of the incorporation of the association. C. O. 65, s. 6.

Rules of association

**7.** Within one month after the filing of such declaration as aforesaid a meeting of the members of the association shall be called by notice to be mailed or delivered to each member by the provisional secretary at least ten days before the day of meeting and at such meeting or at any adjournment thereof the members of the association shall agree upon and frame a set of rules for the regulation and management of the association which may declare and provide among other things:

1. The amount of the whole capital stock of the company if it is to be limited and the amount of each share;

2. The highest number of shares which may be allotted to any one person;

3. The mode and terms of payment of shares and the manner of making calls thereon and the mode and conditions of the transfer of the shares;

4. The conditions on which new members may be admitted;

5. A mode of convening general and special meetings;

6. Provision for audit of accounts;

7. The appointment of directors and other officers and their respective duties and a provision for filling vacancies caused by death, resignation or other causes and a copy of all such rules signed by the secretary, shall forthwith be filed in the office of the Territorial secretary with a statutory declaration by the secretary that the same is a true copy of the rules adopted and such rules shall not take effect until filed as aforesaid, and they shall be framed and filed before the association shall carry on any operations. C. O. 65, s. 7.

**8.** All rules made by any association formed under this part may be repealed, altered or amended or new rules may be made at a regular meeting called for that purpose: Amendment of rules

Provided no new or amended rules shall have any force or effect until a copy verified by statutory declaration of the president or other head officer or of the secretary of the association to be a true copy of such new or amended rules passed by the association at a meeting specially called as aforesaid has been filed in the office of the Territorial secretary. C. O. 65, s. 8.

**9.** The association shall cause a book to be kept by the secretary or by some other officer especially charged with that duty wherein shall be kept a duplicate of the said declaration mentioned in section 2 hereof and of all rules filed as aforesaid in the office of the Territorial secretary and all members of the association shall sign the said declaration in the said book. C. O. 65, s. 9. Books

**10.** Any person desiring to become a member of or a stockholder in any such association after incorporation as aforesaid may subject to the provisions of the said rules sign the said declaration in the said book and shall thereupon become such member and shall be entitled to the rights and privileges thereof and shall become liable as such member as fully as though he had signed the declaration prior to the incorporation of the association. C. O. 65, s. 10. Members

**11.** The rules of every association incorporated under this part of this Ordinance shall bind the association and members thereof; and all moneys payable by any member to the association in pursuance of the said rules shall be deemed to be a debt due from such member to the association. C. O. 65, s. 11. Rules to bind members Members' debts to association

**12.** The capital of the association shall be in shares of such denomination as mentioned in the rules. C. O. 65, s. 12. Capital stock

**13.** All elections at meetings of shareholders shall be by ballot and each member shall have one vote for each share held by him in respect of which he is not in default for any calls made thereon. C. O. 65, s. 13. Mode of election

**14.** Any dispute between members or between members and any association established under this part, or any person claiming through or under a member or under the rules of such association, and the directors, treasurer or other officers Disputes may be decided by arbitration thereof relating to matters coming within the business of the association may be decided by arbitration in manner directed by the rules of the association, and the decision so made shall be binding and conclusive on all parties without appeal. C. O. 65, s. 14.

Liability of shareholders

**15.** The liability of the shareholders shall be limited, that is to say, no shareholder in such association shall be in any manner liable for or charged with the payment of any debt or demand due by the association beyond the amount unpaid in respect of his share or shares subscribed for and any shareholder having fully paid up the amount of his said share or shares shall be absolved from all further liability. C. O. 65, s. 15.

Annual return

**16.** Every association formed under this part shall, not later than the thirty-first day of January in each year, make a return to the Territorial secretary of its affairs during the year ending the thirty-first day of December preceding. C. O. 65, s. 16.

Violation of contract to supply milk

**17.** Any person who wilfully violates a contract to supply milk to an association formed under this part may on summary conviction thereof before a justice of the peace be ordered to pay to such association by way of penalty a sum not exceeding $25 together with costs of prosecution. C. O. 65, s. 17.

Mortgage on real estate

**18.** Any association formed under this part shall have power to execute a mortgage upon any real estate purchased or agreed to be purchased by it for the purpose of securing the payment of the whole or a portion of the purchase money of such real estate or for the purpose of raising money for the purposes of their business and to covenant for the repayment of the said mortgage money and interest or for the purpose of securing payment of any bonds issued or to be issued and generally to make such provisions binding on the association as are usually contained in mortgages. C. O. 65, s. 18.

How executed

**19.** The said mortgage may be executed in accordance with any of the rules passed for the regulation and management of the association in that behalf and upon being so executed shall be a valid security of the said association. C. O. 65, s. 19.

**20.** Any such association shall have power to borrow money for the purpose of its business and to issue bonds or debentures for the repayment of the same with interest and such bonds or debentures without registration shall be a binding security and charge upon all the real and personal estate of the association including called or uncalled capital and such bonds may be issued in accordance with the rules of the said association and shall be payable at such time or times as may be therein expressed and may be mortgaged, sold or hypothecated by the said association in accordance with any provisions in that behalf included in the said rules but such bonds shall not be issued until the same shall have been approved by the Lieutenant Governor in Council and a notice of the intended issue of the same in writing shall have been deposited in the office of the territorial secretary. C. O. 65, s. 20. **Borrowing powers**

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## PART II.

### DAIRYMEN'S ASSOCIATION.

**21.** The association formed under the provisions of Ordinance No. 15 of 1891-1892 intituled: "*An Ordinance to authorise the formation of an association under the name of The Dairymen's Association of the North-West Territories,*" having for its object to encourage the improvement in the manufacture of butter and cheese and all things connected therewith, is hereby continued as a body politic and corporate and may possess real estate to the value of $10,000. C. O. 65, s. 21. **Continuation of "The Dairymen's Association"**

**22.** Such association shall be composed of at least twenty-five persons and every member thereof shall pay annually a sum not less than $1 to the funds of the association and any person hereafter becoming a member shall sign a declaration in form C in the schedule hereto, which declaration shall be written and signed in the book kept by the association for the purpose of entering therein the minutes of their proceedings. C. O. 65, s. 22. **Number of members** **Fees** **Declaration**

**23.** Such association shall have power and authority to make bylaws, to prescribe the mode or manner of admission of new members, to regulate the election of its officers and generally the administration of its affairs and property. C. O. 65, s. 23. **Government of association**

Annual report

**24.** The officers and directors of such association shall prepare and present at its annual meeting a detailed report of their operations during the past year indicating the names of all the members of the association, the amount subscribed and paid by each, the names of the factories, creameries, inventions, improvements and products which deserve public notice, and giving all the information which they deem useful to the interests of the dairy industry, and a copy of the said report shall be sent to the territorial secretary. C. O. 65, s. 24.

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## SCHEDULE.

### FORM A.

North-West Territories }
To Wit: }

We do hereby certify that we desire to form a company or association, pursuant to the provisions of part 1 of *The Dairymen's Ordinance.*

The corporate name of the association is to be and the objects for which the association is to be formed are

The capital stock of the association is to consist of shares of dollars each, and the number of shares shall be (*or* limited only as may be provided by the rules of the association). has been appointed provisional secretary of the said association, and his post office address is

And the name of the place (*or* places) where the operations of the said association are to be carried on is (*or* are)

Dated this day of A.D. 1

(*names of persons signing declaration.*)

On the day of A.D. 1 before me personally appeared to me known to be the individuals described in the foregoing declaration and they severally before me signed the said declaration and acknowledged that they signed the same for the purposes therein mentioned.

*A.B.*

*Signature of officer before whom declaration made.*

## FORM B.

I,                    the provisional secretary of the butter and cheese manufacturing association mentioned in the accompanying declaration signed before                    Esquire, (*style of officer*), and dated the                    day of                    A.D. 1    , do solemnly declare that the subscribers to such declaration have respectively subscribed to the said association the amount set opposite to their respective names in the second column of the statement hereinafter written and each subscriber has paid on account of his subscription the amount set opposite to his name in the third column of such statement and each such subscription has been paid in cash or otherwise as stated in the fourth column of such statement.

STATEMENT REFERRED TO ABOVE.

| Column 1. Name of Subscriber. | Column 2. Amount Subs'ib'd. | Column 3. Amount Paid. | Column 4. How Paid. |
|---|---|---|---|
| *A. B.* | $2 00 | $2 00 | Cash. |
| *C. D.* | 2 00 | 1 00 | Cash. |
| *E. F.* | 1 00 | 1 00 | Lumber. |
| *G. H.* | 1 00 | 1 00 | Hauling material. |

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at
in the North-West Territories,
this          day of
A.D. 1
*I.J.*,

*G.H.*
Provisional Secretary.

*Signature of officer before whom declaration made.*

## FORM C.

We the undersigned agree to become members of *"The Dairymen's Association of the North-West Territories"* and we hereby severally agree to pay to the treasurer yearly while we continue members of the association the sums set opposite to our respective names hereunder. We further agree to conform to the rules and bylaws of the said association.

| Name. | Sec., Tp., Rg. | P.O. Address. | Am't Subscribed |
|---|---|---|---|
| | | | |

# DEATH OR INJURY COMPENSATION.

*See* ACCIDENTS.
COMPENSATION TO FAMILIES.
WORKMEN'S COMPENSATION.

# DEATH REGISTRATION.

*See* VITAL STATISTICS.

# DENTISTRY.

1903, Sess. 2, c. 16

## An Ordinance respecting Dentistry.

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Dental Profession Ordinance."* 1903, Sess. 2, c. 16, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

The word "college" shall mean "The College of Dental Surgeons of the North-West Territories" incorporated by this Ordinance;

The word "council" shall mean the "council" of the said college provided for by this Ordinance;

The word "secretary" shall mean the secretary of the said council;

The words "legally qualified," "dental practitioner" or "duly qualified dental practitioner" or any other words implying legal recognition of any person as a dental practitioner or member of the dental profession shall mean a person registered under the provisions of this Ordinance. 1903, Sess. 2, c. 16, s. 2.

### COLLEGE OF DENTAL SURGEONS.

College of dental surgeons constituted

3. The members of The Dental Association of the North-West Territories as constituted by *The Dentistry Ordinance* being chapter 53 of *The Consolidated Ordinances* 1898 and all persons registered as members as hereinafter provided are hereby constituted a body corporate under the name of "The College of Dental Surgeons of the North-West Territories" and shall be deemed a body politic and corporate and shall have perpetual succession and a common seal with power to sue or be sued and to acquire, hold or dispose of chattel property and real estate for the purpose of this Ordinance. 1903, Sess. 2, c. 16, s. 3.

### COUNCIL OF COLLEGE—ELECTION OF MEMBERS.

Council

4. There shall be a council of the said college to be appointed in the manner hereinafter provided and hereinafter referred to as the council. 1903, Sess. 2, c. 16, s. 4.

Qualified voters

5. The persons entitled to vote at elections of members of the council shall be persons registered as dental practitioners in pursuance of this Ordinance. 1903, Sess. 2, c. 16, s. 5.

Members of council

6. No person shall be eligible to be elected as a member of the council unless he is registered in pursuance of this Ordinance. 1903, Sess. 2, c. 16, s. 6.

Five members

7. The council shall consist of five members to be elected as hereinafter provided. 1903, Sess. 2, c. 16, s. 7.

Conduct of elections

8. The charge and conduct of the election for members of the council shall be under the management of the secretary of the council and the time and place of such election shall be determined by the council so that however there shall be an election in every odd numbered year. 1903, Sess. 2, c. 16, s. 8.

Votes

9. Every person entitled to vote may vote for five members and in case of any person placing more than five names on his voting paper the first five only shall be counted. 1903, Sess. 2, c. 16, s. 9.

Method of voting

**10.** Such votes shall be given by closed voting paper in the form A in the schedule to this Ordinance signed by the voter and delivered to the secretary on the day of election or within the twenty days preceding it. Any voting paper received by the secretary by post shall be deemed to be delivered to him. 1903, Sess. 2, c. 16, s. 10.

Scrutineers

**11.** The council shall appoint two persons who with the secretary shall act as scrutineers at the election. On the day succeeding the day of election the secrteary shall in the presence of the other two scrutineers proceed to open the voting papers and count the votes and record the same in a book of record to be provided by the council. 1903, Sess. 2, c. 16, s. 11.

Voters may be present

**12.** Any person entitled to vote at an election shall be entitled to be present at the opening and counting of the voting papers. 1903, Sess. 2, c. 16, s. 12.

Term

**13.** The five persons who have the highest number of votes shall be the members of the council for the two years from the first day of January next after the date of the election or until their successors are elected. 1903, Sess. 2, c. 16, s. 13.

Equality of votes

**14.** In case of an equality of votes between two or more persons the scrutineers shall forthwith put into a ballot box a number of papers equal to the number of candidates who have an equality of votes the said papers each having the name of one of such candidates written thereon being one paper for each such candidate. The said papers shall be folded so that the name of the candidate shall be on the inside and not distinguishable without the paper being opened. The papers shall be mixed in the ballot box in the presence of the other two scrutineers and the secretary shall draw by chance from such ballot box in the presence of the other two scrutineers one or more papers sufficient to make up the required number of persons and the persons whose names are so drawn shall be deemed to be elected members of the council. 1903, Sess. 2, c. 16, s. 14.

Eligibility

**15.** No person shall be entitled to vote at such elections after the first election unless his fees to the council are paid. No person shall be eligible unless qualified to vote at such election and the votes cast for any person who is ineligible to vote shall be null and void. 1903, Sess. 2, c. 16, s. 15.

List to be made out

**16.** The secretary shall one month previous to the day on which the election is to be held make out an alphabetical list of the registered practitioners entitled to vote and forward by mail prepaid a copy of the said list together with a copy of the voting paper in form A in the schedule hereto to each registered practitioner.

(2) In case any registered practitioner complains to the secretary in writing of the improper insertion or omission of any name in the said list it shall be the duty of the secretary to examine into the said complaint and rectify the error if there be any; and in case the party complaining is dissatisfied with the decision of the secretary he may appeal to a judge of the supreme court provided such appeal is made within ten days before the day on which the election is to be held; and such judge shall hear and decide such appeal in a summary way and such notice as the said judge shall direct shall be given to the persons specified in the notice before the said hearing and if he deem necessary evidence may be taken by him *viva voce* under oath or by affidavit according as he shall direct and the decision of such judge shall be final. 1903, Sess. 2, c. 16, s. 16.

**Voters list conclusive**

**17.** The list so made out by the secreatry with any amendments that may be made thereto by a judge of the supreme court as aforesaid provided shall be held to be the register of the persons entitled to vote and no person shall be entitled to vote whose name is not on such register or list. 1903, Sess. 2, c. 16, s. 17.

**Election regulations**

**18.** The members of the council may make such regulations as they consider expedient not inconsistent with this Ordinance for regulating the procedure in such elections. 1903, Sess. 2, c. 16, s. 18.

**Voting papers to be preserved**

**19.** The voting papers belonging to any election shall not be destroyed until after petitions in respect to such election have been decided but the same together with all other papers in connection with such election shall be retained by the secretary for three months after such election. 1903, Sess. 2, c. 16, s. 19.

**Disputed election**

**20.** No petition against the return of any member shall be entertained by the council unless such petition is filed with the secretary within sixty days after such election and unless a copy of such petition is served on the member whose election is disputed within sixty days after such election. 1903, Sess. 2, c. 16, s. 20.

Inquiry into disputed election

**21.** Upon receipt of any such petition against the election of any member by the secretary he shall upon proof that notice as aforesaid has been served on the member whose election is disputed forthwith notify the council and the council shall meet within one week after said notice and the council shall hold an inquiry into the said disputed election and shall decide the same and their decision shall be final. If the election is found to be illegal the council shall thereupon order a new election. 1903, Sess. 2, c. 16, s. 21.

Vacancies in council, how supplied

**22.** In case of the failure to elect the requisite number of duly qualified members of the council or in case of the death or resignation of any of the members or in case of a vacancy by any other cause then it shall be the duty of the remaining members of the council to supply the deficiency by appointing to such vacant place or places as may thus occur any person duly qualified under this Ordinance to become a member. 1903, Sess. 2, c. 16, s. 22.

### PRESIDENT AND OFFICERS.—MEETINGS OF COUNCIL.

Officer

**23.** The council shall from among its members annually appoint a president, vice president and secretary treasurer and such other officers as may from time to time be deemed necessary for the carrying out of this Ordinance who shall hold office for the term of the council and until their successors are appointed and the council may by bylaw affix the salaries of such officers and of the board of examiners hereinafter appointed. 1903, Sess. 2, c. 16, s. 23.

Executive

**24.** The council shall annually appoint from among its members an executive committee who shall take cognisance of any action upon all such matters as shall be delegated to it by the council or as shall require immediate attention between the adjournment of the council and its next meeting but the said committee shall have no power to alter, repeal or suspend any bylaw of the council. 1903, Sess. 2, c. 16, s. 24.

Meetings

**25.** The council shall make rules and regulations as to the time and place of future meetings of the council and of the manner of summoning the same which rules and regulations shall remain in force until altered at any subsequent meeting and in the absence of any such rule or regulation it shall be lawful for the president or in the event of his death the secretary to summon the council at such time and place as to him shall seem fit.

(2) In the event of the absence of the president the vice president or in the event of his absence any member of the council chosen from among the members of the council may act as president. Procedure

(3) All acts of the council shall be decided by the majority of the members present three members being required to form a quorum.

(4) The president or acting president shall at all times have a vote in the council. 1903, Sess. 2, c. 16, s. 25.

**26.** There shall be paid to the members of the council such fees for attendances and such reasonable travelling expenses as shall from time to time be fixed by the council. 1903, Sess. 2, c. 16, s. 26. Fees to members of council

## REGISTRATION.

**27.** The council shall cause to be kept by the secretary a book or register in which he shall enter the name of every dental practitioner who is entitled to be registered under the provisions of this Ordinance and from time to time the names of all persons who comply with the said provisions and those persons only whose names are inscribed in such book or register shall be deemed to be qualified to practise dentistry or dental surgery in the North-West Territories and such book shall be open to inspection at all times. 1903, Sess. 2, c. 16, s. 27. Register

**28.** It shall be the duty of the secretary to keep his register correct in accordance with the provisions of this Ordinance and the rules, orders and regulations of the council and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Ordinance and the said secretary shall perform such other duties as may be imposed upon him by the council not inconsistent with this Ordinance. 1903, Sess. 2, c. 16, s. 28. Secretary's duties

**29.** The following persons upon payment of the prescribed fee shall be entitled to be registered as members of The College of Dental Surgeons of the North-West Territories: Qualifications of members of college

(*a*) All persons who are at the time of the passing of this Ordinance members of The Dental Association of the North-West Territories.

(*b*) Any person possessing a diploma of graduation in dental surgery from any Canadian dental college or any Canadian university having a special dental department or from any such institution duly authorised by the laws of Great Britain or any of her dependencies.

(*c*) Any member of any incorporated college of dentistry or of dental surgeons of any province of Canada having powers similar to those conferred by this Ordinance upon The College of Dental Surgeons of the North-West Territories by which under the laws of the province governing the said incorporated body similar rights to register and to practise dentistry are granted to the persons registered under this Ordinance.

(*d*) Any perosn holding a diploma or certificate of qualification from a dental college or school of dental surgery which at the time when such person applies for registration grants its diploma or certificate of qualification only after a *three* year course of lectures and practise and producing satisfactory evidence that the holder of such diploma or certificate is recognised as qualified to practise dentistry in the country, province or state within which such diploma or certificate has been granted.

(*e*) Any person licensed or entitled to be licensed to practise dentistry or dental surgery in the United Kingdom of Great Britain and Ireland.

(*f*) Any person who shall satisfy the council that he has practised dentistry or dental surgery for at least five years and shall pass before the members of the council or such examiners as may be appointed for the purpose a satisfactory examination touching his fitness and capacity to practise as a dentist or dental surgeon. 1903, Sess. 2, c. 16, s. 29, and 1904, c. 5, s. 1.

**Registration fee**

**30.** The fee payable for registration under the next preceding section shall be the sum of $50 except for persons registered under clause (*a*) thereof who shall not be required to pay any fee for such registration. 1903, Sess. 2, c. 16, s. 30.

**Annual membership fee**

**31.** Each member shall pay to the secretary or to any person deputed by the secretary to receive it such annual fee as may be determined by bylaw of the council not exceeding $2 towards the general expenses of the council which fee shall be payable on the first day of January in each year and such fee shall be deemed to be a debt due by each member of the said college:

Provided that the council may in any case in which it deems expedient remit any annual fees due to the college by any member who is or has been a resident out of the Territories during the period in respect of which fees become due. 1903, Sess. 2, c. 16, s. 31.

**32.** Any applicant for registration under section 29 whose application is refused may appeal to a judge of the supreme court who may hear such appeal and make such order thereon as may seem just. 1903, Sess. 2, c. 16, s. 32.

**Appeal from refusal to register**

**33.** The council may at any time direct that the name of any person improperly registered be erased from the register. 1903, Sess. 2, c. 16, s. 33.

**Erasure of name from register**

GENERAL POWERS OF COUNCIL.

**34.** The council shall from time to time as the occasion may require make regulations and bylaws for regulating the register to be kept under this Ordinance and shall from time to time make rules and regulations for the guidance of the examiners and may prescribe the subjects and modes of examinations and generally make all such rules and regulations in respect of examinations not contrary to the provisions of this Ordinance as the council may deem expedient and necessary. 1903, Sess. 2, c. 16, s. 34.

**Council to regulate register and examinations**

**35.** The council may from time to time make, alter or amend and repeal rules and regulations for the well being and discipline of the council, the conduct of its affairs and the promotion of dental and surgical knowledge and the disposition of the funds of the council provided such rules and regulations be not repugnant to the provisions of this Ordinance. 1903, Sess. 2, c. 16, s. 35.

**General rules**

CENTRAL EXAMINATION BOARD.

**36.** The council shall have power to establish an examining board and to prescribe fees for examinations and may conjointly with the council or councils of colleges of dentistry or dental surgeons incorprated under any act of the Legislature of any province of Canada possessing powers similar to those conferred on The College of Dental Surgeons of the North-West Territories constitute a central examining board and delegate to such boards all powers possessed by the said council respecting the examination of candidates for admission to practise dentistry or dental surgery including the imposition of examination fees:

**Examining boards**

Provided that such power shall not be exercised unless the persons passing any examinations of such central examining board shall on complying with the laws and rules of the respective councils in other respects be entitled to registration as legally qualified dental practitioners in the province whose councils may have conjointly with the said council established such central examining board; and

Provided further that any examinations conducted by such central examining board shall be held in at least one place within the Territories simultaneously with such examinations held in any province. 1903, Sess. 2, c. 16, s. 36.

DISCIPLINARY.

Misconduct of registered practitioner

**37.** If any registered dental practitioner shall be convicted of any indictable offence or shall after due inquiry be judged by the council to have been guilty of infamous conduct in any professional respect such council may if it sees fit direct the secretary to erase the name of such practitioner from the register and the name of such person shall be erased by the secretary from the register. 1903, Sess. 2, c. 16, s. 37.

Inquiry

**38.** The council may and upon the application of any three registered dental practitioners shall cause inquiry to be made in the case of a person alleged to be liable to have his name erased under the next preceding section and on proof of such conviction or infamous conduct shall cause the name of such person to be erased from the register:

Provided that the name of a person shall not be so erased on account of his adopting or refraining from adopting the practise of any particular theory of dentistry or dental surgery nor on account of a conviction for a political offense out of his Majesty's dominion nor on account of a conviction for an offense which though within the provisions of the last preceding section ought not in the opinion of the council or the committee hereinafter named either from the trival nature of the offence or from the circumstances under which it was committed to disqualify a person from practising dentistry or dental surgery. 1903, Sess. 2, c. 16, s. 38.

Costs

**39.** The council may order to be paid out of the funds at their disposal such costs as may to them seem just to any person against whom any complaint has been made which when finally determined is found to have been frivolous and vexatious. 1903, Sess. 2, c. 16, s. 39.

Name erased not to be restored without authority

**40.** Where the council direct the erasure from the register of the name of any person or of any other entry the name of that person or that entry shall not be again entered on the register except by the direction of the council or by the order of a judge of the supreme court. 1903, Sess. 2, c. 16, s. 40.

Restoration of name erased

**41.** If the council see fit in any case they may direct the secretary to restore to the register any name or entry erased therefrom either without fee or on payment of such fee not exceeding the registration fee as the council may fix and the secretary shall restore the same accordingly. 1903, Sess. 2, c. 16, s. 41.

**42.** The council shall for the purpose of exercising in any case the power of erasing from and restoring to the register the name of any person or other entry ascertain the facts of such case by a committee of their own body of whom the quorum shall be three and a written report of the committee may be acted upon as to the facts therein stated for the purpose of the exercise of the said powers by the council. 1903, Sess. 2, c. 16, s. 42. **Committee of inquiry**

**43.** The council shall from time to time appoint and shall always maintain a committee for the purposes prescribed in the last preceding section and subject to the provisions of this Ordinance may from time to time determine the constitution and the number and tenure of office of the members of such committee. 1903, Sess. 2, c. 16, s. 43. **Constitution of committee**

**44.** The committee appointed under the preceding section may for the purpose of the execution of their duties under this Ordinance employ at the expense of the council such legal or other assistance as to the committee may seem necessary or proper and the person whose conduct is the subject of inquiry shall also have the right to be represented by counsel: **Legal assistance** **Counsel**

Provided that all meetings of such committee when held for taking evidence or otherwise ascertaining the facts shall be held within the judicial district or subjudicial district where the member complained of resides or the alleged offence was committed unless he shall consent to have the inquiry elsewhere. 1903, Sess. 2, c. 16, s. 44.

**45.** At least two weeks before the first meeting to be held for taking the evidence or otherwise ascertaining the facts a notice shall be served upon the person whose conduct is the subject of inquiry and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry and shall also specify the time and place of such meeting. The testimony of witnesses shall be taken under oath which the chairman of the committee is hereby authorised to administer and there shall be full right to cross examine all witnesses called and to adduce evidence in defence and reply. 1903, Sess. 2, c. 16, s. 45. **Procedure on inquiry**

Subpœna

**46.** For the purpose of procuring the attendance and evidence of a witness before the committee a judge of the supreme court may on application of any party to the inquiry order the issue by the clerk of the supreme court or a deputy clerk of a writ of subpœna *ad testificandum* or a writ of subpœna *duces tecum*. The rules of evidence on such inquiry and the proceedings and penalties in the case of disobedience to any such writ shall be the same as obtain in civil cases in said court. 1903, Sess. 2, c. 16, s. 46.

Non-attendance of accused

**47.** In the event of the nonattendance of the person whose conduct is the subject of such inquiry the committee may upon proof of the personal service of the notice aforesaid in accordance with the provisions of this Ordinance which proof of service may be by statutory declaration proceed with the subject matter of the inquiry in his absence and make their report of the facts without further notice to such person. 1903, Sess. 2, c. 16, s. 47.

Appeal to judge

**48.** Any person whose name has been ordered to be erased from the register may appeal from the decision of the council to a judge of the supreme court at any time within six months of the date of the order for such erasure and such judge may upon the hearing of such appeal make such order as to the restoration of the name so erased or confirming such erasure or for further inquiries by the committee or council into the facts of the case or otherwise and as to costs as shall seem just. 1903, Sess. 2, c. 16, s. 48.

Evidence on appeal

**49.** The secretary shall upon the request of any person desiring to appeal furnish such person a certified copy of all proceedings, reports, orders and papers upon which the committee or council have acted in making the report or order complained of and such certified copy may be used by the appellant in evidence as if it were the original of which it purports to be a copy. 1903, Sess. 2, c. 16, s. 49.

## RIGHTS OF REGISTERED PRACTITIONERS.

Rights of persons registered

**50.** Every person who has been registered and has paid his annual fee under the provisions of this Ordinance shall be entitled to practise dentistry and dental surgery or either of them in the Territories and demand and recover in any court in the said Territories with full costs of suit reasonable charges for professional aid, advice and visits and the cost of any medicine or surgical appliances rendered or supplied by him to his patients. 1903, Sess. 2, c. 16, s. 50.

**51.** No person shall be entitled to recover any charge in any court of law for any dental or surgical advice or for attendance or for the performance of any operation or for any medicine which he may have prescribed unless he is registered under this Ordinance and has paid his annual fee. 1903, Sess. 2, c. 16, s. 51.

**Unregistered person cannot recover charges**

### PUBLICATION OF DENTAL REGISTER.

**52.** The secretary shall from time to time and at least once in each year under the direction of the council cause to be printed and published a correct register of the names in alphabetical order according to the surnames with the respective residences in form B in the schedule to this Ordinance or to the like effect together with the dental titles, diplomas or qualifications conferred by any college or body of all persons appearing on the register as existing on the day of publication and such register shall be called The North-West Territories Dental Register and a copy of the register for the time being purporting to be so printed and published as aforesaid shall be *prima facie* evidence in all Territorial courts and before all justices of the peace and all others that the persons therein specified are registered according to the provisions of this Ordinance and subject to the provisions of subsection (2) of this section the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Ordinance.

**Register of practitioners, publication and effect of**

(2) A certificate under the hand of the secretary certifying that any person is registered under this Ordinance shall be *prima facie* evidence that such person is so registered. 1903, Sess. 2, c. 16, s. 52.

### EVIDENCE OF REGISTRATION.

**53.** In all cases where proof of registration under this Ordinance is required to be made the production of a printed or other copy of the register or of any extract therefrom certified by the secretary and under the corporate seal of the college shall be sufficient evidence of registration in lieu of the production of the original register and any certificate purporting to be signed by any person in his capacity as secretary of the council under this Ordinance shall be *prima facie* evidence that such person is such secretary without any proof of his signature or of his being in fact such secretary. 1903, Sess. 2, c. 16, s. 53.

**Further evidence of registration**

### OFFENCES AND PENALTIES, PROSECUTIONS.

Practioners omitting to register

**54.** Any person entitled to be registered under this Ordinance but who neglects or omits to be so registered shall not be entitled to any of the rights and privileges conferred by registration so long as such neglect or omission continues and he shall be liable to all the penalties imposed by this Ordinance or any other Ordinance in force against unqualified or unregistered practitioners. 1903, Sess. 2, c. 16, s. 54.

Unregistered persons practising for reward

**55.** No unregistered person shall practise dentistry or dental surgery for hire or hope of reward; and if any person not registered pursuant to this Ordinance for hire, gain or hope of reward practises or professes to practise dentistry or dental surgery he shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding $100. 1903, Sess. 2, c. 16, s. 58.

Pretending to be a dentist

**56.** Any person who wilfully and falsely pretends to be a dentist, dental surgeon or dental practitioner or assumes any title, addition or description other than he actually possesses or is legally entitled to shall be liable on summary conviction thereof to a penalty not exceeding $50 and not less than $10. 1903, Sess. 2, c. 16, s. 56.

Assuming false title

**57.** Any person not registered pursuant to this Ordinance who takes or uses any name, title, addition or description implying or calculating to lead people to infer that he is registered under this Ordinance or that he is recognised by law as a dentist or dental surgeon or a licentiate in dentistry or dental surgery shall be liable upon summary conviction to a penalty not exceeding $100 and not less than $25. 1903, Sess. 2, c. 16, s. 57.

Prosecutions penalty

**58.** Any prosecutions under this Ordinance may be brought or heard before a justice of the peace and in case the penalty and costs awarded are not upon conviction forthwith paid the justice may commit the offender to a common goal there to be imprisoned for any term not exceeding one month unless the penalty and costs are sooner paid. 1903, Sess. 2, c. 16, s. 58.

Onus of proof

**59.** In any prosecution under this Ordinance the burden of proof of registration shall be upon the person charged. 1903, Sess. 2, c. 16, s. 59.

Limitations of prosecution

**60.** Every prosecution under this Ordinance shall be commenced within six months from the date of the alleged offence. 1903, Sess. 2, c. 16, s. 60.

**61.** The council by an order signed by the president having the seal of the council appended thereto may withdraw any prosecution under this Ordinance where it is deemed expedient. 1903, Sess. 2, c. 16, s. 61. Council may withdraw prosecution

**62.** All fines and penalties imposed under any of the provisions of this Ordinance and all moneys to be received and levied thereunder shall after the receipt thereof by the person authorised to receive the same be forthwith paid by such person to the treasurer for the uses of the college. 1903, Sess. 2, c. 16, s. 62. Application of fines

### RETURNS.

**63.** The secretary whenever required by the Lieutenant Governor shall transmit to the Territorial secretary a return verified by oath setting forth all such information and particulars relating to the college as may from time to time be required. 1903, Sess. 2, c. 16, s. 63. General returns may be called for

### MISCELLANEOUS.

**64.** Where under this Ordinance any application is authorised to be made to or any proceedings authorised to be taken before a judge of the supreme court such application or proceedings may be by originating summons in accordance with the rules of court. 1903, Sess. 2, c. 16, s. 64. Procedure before judge

**65.** All the real and personal property of The Dental Association of the North-West Territories and all the books, papers and documents belonging to the said association shall on the coming into force of this Ordinance become vested in and become the property of The College of Dental Surgeons of the North-West Territories. 1903, Sess. 2, c. 16, s. 65. Property

**66.** The Lieutenant Governor in Council may appoint a provisional secretary of the council who shall hold office until a secretary is appointed by the council and who shall perform all the duties of the secretary for the purpose of holding the first election of members of the council and shall for the purposes of said election appoint two scrutineers who shall act with him for the purpose of opening and recording the voting papers. 1903, Sess. 2, c. 16, s. 66. Provisional secretary

**67.** The Lieutenant Governor in Council may also appoint an auditor who shall proceed with all convenient speed to audit the books and accounts of the dental association hereinbefore referred to and report to the council. 1903, Sess. 2, c. 16, s. 67. Appointment of auditor

Secretary of association to furnish list of members, etc.

**68.** The secretary treasurer of the said dental association shall forthwith upon the appointment of the provisional secretary of the council furnish him with a list of all the members of the said dental association and deliver to him all moneys in his possession or power the property of the said association and shall also forthwith on the appointment of the auditor in the next preceding section mentioned deliver to him all books, papers and other property of the said association for the purpose of his audit which shall be delivered by him to the council with his report. 1903, Sess. 2, c. 16, s. 68.

First election

**69.** The first election of members of the council shall be held within three months after the coming into force of this Ordinance. 1903, Sess. 2, c. 16, s. 69.

Term of office of first council

**70.** The members elected to the council at such first election shall hold office until the first day of January, 1906, and until their successors are elected. 1903, Sess. 2, c. 16, s. 70.

Expense of first election how paid

**71.** The expenses of the first election and the auditor's and provisional secretary's fees which shall be fixed by the Lieutenant Governor in Council shall be paid out of the moneys received from the secretary treasurer of the said dental association and in the event of such moneys being insufficient any deficiency shall be paid by the council. 1903, Sess. 2, c. 16, s. 71.

First meeting of council

**72.** The provisional secretary shall call the first meeting of the council within two weeks after the holding of the said election. 1903, Sess. 2, c. 16, s. 72.

Ordinance not to apply to medical practitioners

**73.** The provisions of this Ordinance shall not apply to any registered practitioner of medicine or surgery in the Territories. 1903, Sess. 2, c. 16, s. 73.

Repeal

**74.** Chapter 53 of *The Consolidated Ordinances 1898*, Chapter 9 of the Ordinances of 1899, Chapter 16 of the Ordinances of 1900 and Chapter 6 of the Ordinances of 1902 are hereby repealed. 1903, Sess. 2, c. 16, s. 74.

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## SCHEDULE.

### FORM A.

### THE DENTAL PROFESSION ORDINANCE VOTING PAPER FOR ANNUAL ELECTION.

I, John Williams, a registered dental practitioner, vote for the five persons hereinafter named to form members of The

Council of College of Dental Surgeons of the North-West Territories:

1
2
3
4
5

And I, John Williams, solemnly declare that I am entitled to vote at this election and that I am not in default of my fees to the council.

Dated at this
day of 1903. 1903, Sess. 2, c. 16.
Witness

FORM B.

| NAME | RESIDENCE | QUALIFICATION |
|---|---|---|
| | | |

1903, Sess. 2, c. 16.

## DEPARTMENTS OF GOVERNMENT.

*See* AGRICULTURE DEPARTMENT.
ATTORNEY GENERAL'S DEPARTMENT.
EXECUTIVE COUNCIL.
PUBLIC SERVICE.
PUBLIC WORKS.
SCHOOLS.
TREASURY DEPARTMENT.
TERRITORIAL SECRETARY.

## DEPUTY CLERKS OF COURT.

*See* CLERKS OF COURT AND DEPUTIES.

## DEPUTY SHERIFFS.

*See* SHERIFFS.

# DEVOLUTION OF ESTATES.

1901, c. 13

## An Ordinance respecting the Devolution of Estates.

12 June, 1901

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Widow entitled to estate if no children

**1.** The property of any man hereafter dying intestate and leaving a widow but no issue shall belong to such widow absolutely and exclusively provided that prior to his death such widow had not left him and lived in adultery after leaving him.

(2) This section shall apply to the property of any person who died before the date of the coming into force of this Ordinance in case no portion of the estate of such person has been distributed. 1901, c. 13, s. 1.

Mother entitled if no wife, child or father

**2.** The mother of any person hereafter dying intestate without a wife, child or father shall be entitled to the whole of the property of such intestate. 1901, c. 13, s. 2.

Illegitimate children to take

**3.** In the distribution of personal property of any woman hereafter dying intestate her illegitimate children shall be entitled to the same rights as if they were legitimate. 1901, c. 13, s. 3.

Mother of illegitimate child to take

**4.** When an illegitimate child hereafter dies intestate without issue the mother of such child shall be entitled to any personal property which the said child was the owner of at the time of his death. 1901, c. 13, s. 4.

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# DISTRESS FOR RENT AND EXTRA JUDICIAL SEIZURES.

C.O. 1898, c. 34
15 March, 1899

## An Ordinance respecting Distress for Rent and Extra-Judicial Seizures.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Costs in distraints not to exceed rates in schedule**

**1.** No person whosoever making any distress for rent nor any person whosoever employed in any manner in making such distress or doing any act whatsoever in the course of such distress or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels distrained upon and sold or from the tenant distrained on or from the landlord or from any other person whomsoever any other or more costs and charges for and in respect of such distress or any matter or thing done therein than such as are fixed in the schedule to this Ordinance and applicable to each proceeding which shall have been taken in the course of such distress and no person or persons whosoever shall make any charge whatsoever for any act, matter or thing mentioned in this Ordinance or in the said schedule unless such act, matter or thing shall have been really performed or done. C. O. 34, s. 1.

**Seizure under chattel mortgages, etc., costs regulated**

**2.** No person whosoever making any seizure under the authority of any chattel mortgage, bill of sale or any other extra judicial process whatsoever nor any person whosoever employed in any manner in making such seizure or doing any act whatsoever in the course of such seizure or for carrying the same into effect shall have, take or receive out of the proceeds of the goods and chattels seized and sold from the person against whom the seizure may be directed or from any other person whomsoever any other or more costs and charges for and in respect of such seizure or any matter or thing done therein or thereunder than such as are fixed in the schedule hereto and applicable to each act which shall have been done in course of such seizure and no person or persons whosoever shall make any charge whatsoever for any act or matter or thing mentioned in the said schedule unless such act, matter or thing shall have been really performed and done. C. O. 34, s. 2.

**Penalty for taking excessive costs**

**3.** If any person making any distress or seizure referred to in sections 1 and 2 of this Ordinance shall take or receive any other or greater costs than are set down in the said schedule or make any charge whatsoever for any act, matter or thing mentioned in the said schedule and not really performed or done the party aggrieved may cause the party making the said distress or seizure to be summoned before the supreme court of the judicial district in which the goods and chattels distrained upon or seized or some portion thereof lie and the said court may order the party making the distress or seizure to pay to the party aggrieved treble the amount of money taken contrary to the provisions of this Ordinance and the costs of suit. C. O. 34, s. 3.

Distraint for rent limited to property of tenant

Exceptions

**4.** A landlord shall not distrain for rent on the goods and chattels the property of any person except the tenant or person who is liable for the rent although the same are found on the premises; but this restriction shall not apply in favour of a person claiming title under or by virtue of an execution against the tenant or in favour of any person whose title is derived by purchase, gift, transfer or assignment from the tenant whether absolute or in trust or by way of mortgage or otherwise nor to the interest of the tenant in any goods on the premises in the possession of the tenant under a contract for purchase or by which he may or is to become the owner thereof upon performance of any condition nor where goods have been exchanged between two tenants or persons by the one borrowing or hiring from the other for the purpose of defeating the claim of or the right of distress by the landlord nor shall the restriction apply where the property is claimed by the wife, husband, daughter, son, daughter-in-law or son-in-law of the tenant or by any other relative of his in case such other relative lives on the premises as a member of the tenant's family. C. O. 34, s. 4.

Distress for interest on mortgage

**5.** The right of a mortgagee of land or his assigns to distrain for interest in arrear or principal due upon a mortgage shall notwithstanding anything stated to the contrary in the mortgage or in any agreement relating to the same be limited to the goods and chattels of the mortgagor or his assigns and as to such goods and chattels to such only as are not exempt from seizure under execution. C. O. 34, s. 5.

Notice of sale

**6.** Goods distrained for such interest or principal shall not be sold except after such notice as is required to be given by a landlord who sells goods distrained for rent. C. O. 34, s. 6.

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## SCHEDULE.

| | |
|---|---|
| 1. Levying distress | $1 00 |
| 2. Man in possession, per day | 1 50 |
| 3. Appraisement, whether by one appraiser or more, two cents on the dollar on the value of goods up to $500 and one per cent. on the dollar for each additional $500 or fraction thereof up to $2,000, and one-half per cent. on all sums over that amount. | |
| 4. All reasonable and necessary disbursements for advertising. | |
| 5. Catalogue, sale, commission and delivery of goods, three per cent. on the net proceeds of the goods up to $1,000 and one and one-half per cent. thereafter. | |

# DOGS.

*See* PROTECTION OF ANIMALS FROM DOGS.

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# DRAINAGE.

## An Ordinance respecting Drainage.

1903, Sess. 1, c. 6

[*Assented to June 19, 1903.*] 19 June, 1903

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Drainage Ordinance."* 1903, Sess. 1, c. 6, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires;

1. The expression "department" means the department of public works for the Territories;

2. The expression "commissioner" means the commissioner of public works for the Territories;

3. The expression "engineer" means any engineer or land surveyor employed from time to time to perform any of the duties necessary for the carrying out of the provisions of this Ordinance;

4. The expression "road" means and includes any public trail, road or highway including any road allowance laid out under the provisions of *The Dominion Lands Act;*

5. The expression "report" includes all maps, plans and estimates of cost of any work undertaken under this Ordinance;

6. The expression "owner" includes any person who by any right, title or estate whatsoever is or is entitled to land and the executor or administrator of an owner, the guardian of an infant owner, any person entitled to sell or convey the land, an

agent of an owner under a general power of attorney or under a power of attorey empowering him to deal with the land and as regards roads, the commissioner of public works;

7. The expression "judge" means a judge of the supreme court of the Territories usually exercising jurisdiction in the district in which any ditch or any proposed ditch is or will be situate;

8. The expression "clerk" or "clerk of the court" or "clerk of the supreme court" means any clerk or deputy clerk of the supreme court of the Territories in whose district any ditch or proposed ditch under this Ordinance is or will be situate;

9. The expression "ditch" or "drain" means and includes a drain open or covered wholly or in part and whether in the channel of a natural stream, creek or watercourse or not, and also the work and material necessary for bridges, culvert catch basins and guards in connection therewith;

10. The expression "government ditch" means any ditch constructed by the commissioner whether any portion or all of the expense of the construction and maintenance thereof is borne by the Territories or not. 1903, Sess. 1, c. 6, s. 2.

## CONSTRUCTION OF GOVERNMENT DITCHES.

**Examination for proposed ditch**

**3.** Whenever the commissioner deems it may be of public benefit to construct any ditch for the purpose of improving any road in the Territories he may have an examination and survey made of the said tract with the view of determining the feasibility and cost of the construction of such ditch. 1903, Sess. 1, c. 6, s. 3.

**Report of engineer**

**4.** The engineer employed to make the examination shall, as soon as possible, submit a report to the commissioner on the proposed ditch; which report shall include an assessment showing the proportion of the cost of the proposed undertaking payable to every road and parcel of land to be benefited and shall be filed in the department. 1903, Sess. 1, c. 6, s. 4.

**Basis of assessment**

**5.** The assessment shall be based upon the benefit to be derived from the ditch and the benefit to any parcel of land shall be determined by its increased value for the purpose for which it is or may be used and the benefit to any road by the cost either of making such road as efficient for a highway as it will be made by the construction of the proposed ditch or of providing some alternative road and making it as efficient for a highway as the benefited road will be made by the construction of the proposed ditch. 1903, Sess. 1, c. 6, s. 5.

Notice of intention to proceed and of place for inspection of report

**6.** In the event of the commissioner determining after the receipt of the said report that the proposed ditch shall be constructed, such construction may be proceeded with forthwith; and the commissioner shall cause a notice to be inserted in two consecutive weekly issues in a newspaper, published or circulating in the vicinity of such proposed ditch, of the determination to proceed with the construction thereof, and of the place or places where a copy of the engineer's report may be inspected, one of which shall be at some convenient place in the vicinity of such proposed ditch. 1903, Sess. 1, c. 6, s. 6.

Notice of appeal rom assessment

**7.** At any time within twenty days after the publication of the notice provided for in the next preceding section, any person affected by the assessment made by the engineer's report may file with the clerk of the court a notice of appeal from such assessment or any portion thereof, which notice shall specify the ground of appeal and shall be in duplicate.

(2) The notice of appeal shall contain the post office address of the appellant and of the person whose assessment is appealed against, if any, and shall be accompanied by the sum of ten dollars, the disposition of which shall be determined by the judge after hearing the appeal.

(3) One duplicate of each notice of appeal shall be forwarded by the clerk to the commissioner at Regina by registered mail as soon as the time for filing notices of appeal has expired. 1903, Sess. 1, c. 6, s. 7.

Judge to fix a time and place for hearing

**8.** The clerk shall thereupon submit the notices of appeal to the judge who shall fix a time and place for hearing the appeals of which notice has been given as prescribed by the next preceding section. 1903, Sess. 1, c. 6, s. 8.

Notice to be given

**9.** At least ten days' notice of the time and place so fixed shall be given by the clerk to the commissioner and to the applicant and to the person against whose assessment the appeal is made, if any, by registered letter. 1903, Sess. 1, c. 6, s. 9.

Hearing appeals

**10.** At the time and place so fixed the judge shall proceed to inquire into the sufficiency of the said appeals and for such purpose shall be a court of record and shall have all the powers vested in a court of record in civil cases. 1903, Sess. 1, c. 6, s. 10.

Adjournment

**11.** The judge may adjourn the said inquiry from time to time and from place to place as he shall think fit. 1903, Sess. 1, c. 6, s. 11.

Decision of judge

**12.** As soon as may be after the hearing of the evidence adduced the judge shall render his decision and shall confirm or alter the assessment in accordance therewith. 1903, Sess. 1, c. 6, s. 12.

Costs of appeals how apportioned

**13.** The costs of any appeals shall be paid and apportioned between the parties in such manner as the judge may think fit and in the event of the $10 deposited by any party ordered to pay costs not proving sufficient to pay the costs he is ordered to pay the deficiency shall be paid by the commissioner and shall be added to and form part of the amount of the assessment against the party ordered to pay such costs. 1903, Sess. 1, c. 6, s. 13.

What costs allowable

**14.** The costs allowable under the next preceding section shall be witness fees and expenses, and clerk's fees and expenses and no other which fees and expenses shall be the same as those allowable for similar services under the rules of the supreme court. 1903, Sess. 1, c. 6, s. 14.

Construction of government ditch

**15.** The commissioner may make such arrangements as he may think fit for the construction of any government ditch either by contract or by day labour and for the payment therefor; and for the purpose of such construction and all examinations and other works preliminary or subsequent thereto may by himself, his engineers, agents and servants together with teams, tools, machinery or appliances enter upon any and all lands in whomsoever they are vested. 1903, Sess. 1, c. 6, s. 15.

Penalty for obstruction of work

**16.** Every person who interrupts, hinders or molests any person while engaged under authority of the commissioner in making any examination for or in constructing, maintaining or repairing any government ditch or the works conected therewith shall be guilty of an offence and upon summary conviction thereof liable to a penalty not exceeding $50 and costs or to imprisonment for a period not exceeding thirty days or to both. 1903, Sess. 1, c. 6, s. 16.

Capacity of outlet

**17.** Every ditch or drain constructed under the provisions of this Ordinance shall be continued to an outlet of sufficient size and capacity to carry off the water delivered from such ditch or drain in addition to the water flowing in such outlet during any period of the year; and if necessary such outlet shall be enlarged as part of the construction of such ditch or drain to make it of sufficient size to carry the additional water delivered from such ditch or drain. 1903, Sess. 1, c. 6, s. 17.

Apportionment of cost of construction

**18.** As soon as conveniently may be after the completion of the construction of any government ditch the commissioner shall ascertain the total cost thereof which shall include the cost of purchasing or expropriating the right of way for the ditch through lands which receive no benefit therefrom but not through lands which are benefited thereby, and shall apportion such cost amongst the lands and roads benefited in the proportions fixed by the assessment mentioned in section 4 hereof as finally confirmed. 1903, Sess. 1, c. 6, s. 18.

Notice o apportionment

**19.** The commissioner shall thereupon give notice by registered letter to the owner of any parcel of land against which any portion of such cost of construction is apportioned whose address is known of the amount of such cost apportioned against such land and any costs which such owner may be liable to pay under the provisions of section 13 hereof shall be added thereto and shall be deemed to be a part of the sum apportioned against such land. 1903, Sess. 1, c. 6, s. 19.

Amount payable to be a lien on the land

**20.** All sums apportioned against any lands under the preceding sections shall be a special lien against such lands in favour of his Majesty having priority over any claim, lien, privilege or incumbrance thereon except taxes.

(2) In the event of any portion of the costs being apportioned against any parcel of land which has not been granted by the Crown the amount of such portion of costs shall become a lien as in this section provided immediately upon the grant of such lands from the Crown. 1903, Sess. 1, c. 6, s. 20.

### RECOVERY OF AMOUNT OF ASSESSMENTS.

A debt due to his Majesty

**21.** Any sum apportioned against any parcel of land shall be a debt due to his Majesty and may be recovered by suit against the owner of such parcel of land in the name of the attorney general and in any such suit a certificate purporting to be signed by the commissioner shall be *prima facie* evidence of the debt. 1903, Sess. 1, c. 6, s. 21.

Payable in instalments

**22.** Any sum apportioned against any parcel of land shall be payable to the commissioner in ten equal annual instalments on the first day of December in each year together with interest at five per cent. per annum on the unpaid amount payable on the same date such interest to be computed from the first day of December of the year in which the ditch is completed on which day the first of the said ten annual instalments shall be paid. 1903, Sess. 1, c. 6, s. 22.

Commutation of instalments

**23.** Any person liable to pay any sum as in the next preceding section provided may commute the unpaid instalments by a cash payment of the total amount of such instalments or with the consent of the commissioner may pay the same in a less number of annual instalments than as provided in the said section. 1903, Sess. 1, c. 6, s. 23.

### MAINTENANCE AND REPAIRS.

Maintenance of ditch

**24.** The commissioner shall make provision for all work necessary for the maintenance of and repairs to any government ditch and the cost thereof shall be apportioned in the same manner as the costs of the construction of such ditch and shall be due and payable on the first day of December of the year in which the work is done. 1903, Sess. 1, c. 6, s. 24.

Distress for amount assessed

**25.** In case the owner of any parcel of land neglects to pay any sum for which he is liable for one month after such sum becomes due the commissioner may cause the same to be levied with costs by distress of the goods and chattels of or in the possession of such owner or of any goods and chattels found on the said parcel of land in the possession of any occupant thereof. 1903, Sess. 1, c. 6, s. 25.

Forfeiture for nonpayment

**26.** In the event of any sum payable by the owner of any parcel of land remaining unpaid for two years, the commissioner may cause notice to be sent by registered letter to all persons shown by the records of the proper land titles office to have any interest in the said parcel of land to the address shown by such records, if any, that after the expiration of three months from the mailing of such notice application will be made to a judge of the supreme court for an order vesting the title of the said parcel of land in his Majesty.

(2) At any time after the expiration of the said three months if the sum or sums due have not in the meantime been paid the attorney general may apply to the judge on not less than ten days' notice to the parties and in the manner mentioned in the next preceding subsection for a vesting order and the judge may thereupon direct that the said parcel of land be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatsoever kind.

(3) Upon any application under the next preceding subsection any certificate purporting to be signed by the commissioner shall be *prima facie* evidence of the facts stated therein.

(4) In the event of the sum or sums due being paid before the judge has made the vesting order as provided in subsection (2) hereof the said owner shall pay to the commissioner such costs as the judge may direct and such costs shall be deemed to be a part of the sum last due and may be recovered in any manner provided for recovering any other sum payable by such owner. 1903, Sess. 1, c. 6, s. 26.

### REMOVAL OF OBSTRUCTIONS.

**Removal of obstructions**

**27.** When any government ditch, heretofore or hereafter constructed, becomes obstructed by dams, bridges, fences, washouts and other obstructions caused by the owner or the person in possession of the lands where such obstruction occurs so that the free flow of water is impeded thereby the person or persons owning or occupying such land shall, upon reasonable notice in writing given by the commissioner, remove such obstructions in any manner caused as aforesaid, and if not so removed within the time specified in the notice the commissioner shall forthwith cause the same to be removed. 1903, Sess. 1, c. 6, s. 27.

**Cost of removal**

**28.** If the cost of removing such obstruction is not paid by such owner or occupant to the commissioner forthwith the same may be recovered by suit in the name of the attorney general against such occupant or owner or may be recovered in any manner provided by this Ordinance for the recovery of any other sum payable to the commissioner. 1903, Sess. 1, c. 6, s. 28.

### CONSTRUCTION OF PRIVATE DITCH.

**Ditch of private owner**

**29.** Any municipality, local improvement district or village or any owner who desires to construct a ditch or drain shall, if such ditch or drain affects other lands than lands owned by such municipality, local improvement district, village or owner, employ an engineer to make the necessary surveys and prepare the plans, estimates of cost and other information required in connection with such ditch or drain. 1903, Sess. 1, c. 6, s. 29.

**Application to commissioner**

**30.** Upon completion of the survey of any ditch or drain an application shall be forwarded to the commissioner in form prescribed by the commissioner for authority to construct such ditch or drain; with a plan prepared by the engineer showing the location of the proposed ditch, the names of the owners of lands crossed by such ditch and the outlet for the ditch together with any further information necessary to a clear understanding of the location and character of the proposed undertaking; and such plan shall be accompanied by a detailed report by the engineer regarding the manner in which lands crossed by the ditch will be affected thereby, the probable cost of completing the construction of the ditch and any further information required by the commissioner. 1903, Sess. 1, c. 6, s. 30.

Permit for construction

**31.** The application, plan, report and estimates required by the next preceding section shall be filed in the department and if approved by the commissioner a permit shall be issued to the applicant authorising him to proceed with the construction of the proposed ditch or drain and granting a definite period for the completion of such construction. 1903, Sess. 1, c. 6, s. 31.

Right of holder of permit

**32.** The holder of a permit for the construction of a ditch or drain may proceed with such construction across any lands in whomsoever vested doing no unnecessary damage thereto or thereon but shall first pay for the right of way required for such ditch or drain. 1903, Sess. 1, c. 6, s. 32.

Arbitration to fix compensation

**33.** If the holder of such permit is unable to agree with the owner of any land crossed by such ditch or drain as to the compensation to be paid for the right of way required therefor they shall proceed to arbitrate the question of such compensation under the provisions of *The Arbitration Ordinance*. 1903, Sess. 1, c. 6, s. 33.

Ordinance to apply to ditches begun

**34.** This Ordinance shall apply to government ditches the examination for which has been made but the construction of which has not been completed prior to the passing of this Ordinance. 1903, Sess. 1, c. 6, s. 34.

### REPEAL.

Repeal

**35.** Sections 31 to 46 both inclusive of *The Public Works Ordinance* being Chapter 4 of the Ordinances of 1901 are hereby repealed. 1903, Sess. 1, c. 6, s. 35.

## DRUGGISTS.

*See* PHARMACEUTICAL ASSOCIATION.

# EASEMENT.

*See* LIMITATION OF ACTIONS.

# EDUCATION.

*See* SCHOOLS.

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# ELECTIONS.

## An Ordinance respecting Elections.

C.O. 1898, c. 3
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Territories Elections Ordinance."* C. O. 3, s. 1.

### ISSUE OF WRIT.

Writ, date of issue and return

**2.** Every writ for the election of a member of the Legislative Assembly shall be dated and shall be returnable on such day as the Lieutenant Governor determines; and shall be addressed by the clerk of the Executive Council to such resident elector of the electoral district in which the election is to be held as the Lieutenant Governor appoints; and such person shall be the returning officer at the election to which such writ relates:

Returning officer

Refusal or inability to act

Provided always that if the person to whom the writ has been addressed refuses or is unable or unqualified to act, he shall (under penalty hereinafter provided) forthwith after the receipt of such writ notify the Lieutenant Governor by the most speedy means available of such inability or refusal or want of qualification, when the Lieutenant Governor may order another writ to issue or may appoint some other resident elector as returning officer who shall act under the writ already issued:

Proviso

Provided also that no election shall be declared void if the person to whom the writ is addressed acts thereunder as returning officer on the ground that such person is not a resident elector of the district or is otherwise disqualified to act as returning officer. C. O. 3, s. 2.

Day and place of nomination and return of writ

**3.** The Lieutenant Governor shall fix the day and locality for the nomination of candidates at such election; and the day and locality so fixed shall be specified in the writ of election for that electoral district:

At general election day to be same in all districts

Provided always that in the case of a general election the day so fixed shall be the same in the case of every electoral district except that it may be varied when rendered necessary under any other provisions of this Ordinance:

Time to elapse between date of writ and nomination

Provided further that there shall be an interval of *not less than ten and not more than twelve* days between the date of the writ and the day of nomination mentioned therein. C. O. 3, s. 3 and 1899 c. 3, s. 2.

Advertisement of notice of election

**3a.** *As soon as the day and the several localities for the nomination of candidates have been fixed as in the next preceding section provided, the clerk of the Executive Council shall direct publication of a notice in form E in schedule 2 to this Ordinance to be made once in each week between the date of the writs of election and the day fixed for the nominations in every newspaper printed and published in the Territories and in such other newspaper circulating within the Territories as he may be directed so to do by the Lieutenant Governor:*

*Provided that it shall not be obligatory to direct publication of such notice in any newspaper which is not printed and published or if printed is not published or if published is not printed within the limits of any electoral district in which an election may not have been ordered.* 1899, c. 3, s. 3.

Form of writ

How to be transmitted

**4.** The writs of election shall be in form A in schedule 2 to this Ordinance and shall be transmitted by registered letter by the clerk of the executive council addressed to the respective returning officers, unless otherwise ordered by the Lieutenant Governor. C. O. 3, s. 4.

### RETURNING OFFICER.

Indorsement of receipt of writ

Oath of office

**5.** The returning officer shall on receiving the writ of election forthwith indorse thereon the date on which he received the same; and before taking any further action thereon he shall take the oath of office in form B in schedule 2 to this Ordinance * * *. C. O. 3, s. 5 and 1899, c. 3, s. 4.

To appoint an election clerk

**6.** The returning officer by a warrant under his hand and in form C in schedule 2 to this Ordinance shall appoint an election clerk and may at any time during the election appoint in the same manner another election clerk if the one so appointed resigns or is unable to perform his duties as such clerk. C. O. 3, s. 6.

**7.** The election clerk shall assist the returning officer in the performance of his duties and act in his stead as returning officer whenever the returning officer after appointing such election clerk refuses or is unable to perform his duties or admits his want of qualification and has not been replaced by another.

Duties of election clerk

(2) All the provisions of this Ordinance in regard to returning officers shall apply to election clerks acting as returning officers.

Responsibility of election clerks acting as returning officers

(3) The returning officer or election clerk shall not act as deputy returning officer or poll clerk in any polling division. C. O. 3, s. 7.

**8.** The election clerk before acting as such shall take the oath of office in form D in schedule 2 to this Ordinance before the returning officer or any person authorised to administer an oath within the Territories. * * * C. O. 3, s. 8 and 1899, c. 3, s. 5.

Oath of election clerk

**9.** The election clerk when acting for or in the stead of the returning officer shall be subject to like penalties as the returning officer for violating any of the provisions of this Ordinance ; but this shall not relieve the returning officer from any penalties provided to which he may render himself liable. C. O. 3, s. 9.

Penalties

POLLING DIVISIONS.

**10.** The returning officer shall with all reasonable speed after receiving the writ of election:

1. * * * * * * *

2. Subdivide the electoral district into as many polling divisions as he deems necessary for the convenience of electors and number them consecutively and give to each a distinctive name:

Polling divisions

Provided always that no such polling division shall have a greater voting population than 200:

Proviso

Provided further however that if a polling division should include a greater number of voters than 200 the fact shall not be held to invalidate the poll held in that polling division; nor shall it render the returning officer liable to a penalty unless it can be shown that one or more duly-qualified voters have been deprived of the opportunity to vote by reason of such larger number of voters having been included within the polling division;

Proviso

Buildings for polling places

3. *Secure and prepare a suitable and conveniently situated building for use as a polling place in each polling division.* C. O. 3, s. 10 and 1899, c. 3, s. 6.

School houses may be used for polling places

**11.** The returning officer is hereby vested with authority to take and use as a polling place any school house the property of any public or separate school district organised by virtue of any Ordinance of the Territories, if such school house is convenient for that purpose.

Rent of school house

(2) The school district shall be paid for the use of the school house such sum as the Lieutenant Governor in Council may allow. C. O. 3, s. 11.

Posting list of polling divisions

**12.** *At least seventy-two hours before the hour fixed in the writ for the nomination of candidates the returning officer shall subdivide the electoral district into polling divisions as provided for in section 10 of this Ordinance; and shall provide and cause a certified copy of the list of such polling divisions with a full description of each to be posted in a conspicuous position outside and adjoining the main entrance to the building in which the nomination is to be held and in such a manner that it may be seen and distinctly read; and shall on demand in writing of any elector at all reasonable times within the said period of seventy-two hours permit such elector to examine the original list of polling divisions and make such extracts therefrom as may be desired.* 1899, c. 3, s. 7.

Additional polling places

**13.** If a demand is made upon the returning officer in writing at any time *up to six o'clock (standard time) of the day upon which the nominations are held* for any additional polling subdivision (the polling place of which shall be named in the request and which shall not be within twenty miles of any polling place already appointed), the returning officer shall set apart as nearly as may be such proposed polling subdivision and appoint the polling place thereof.

(2) *The person making such demand as aforesaid shall file with the returning officer a statutory declaration stating that there are at least ten resident electors wihin the limits of the proposed additional polling subdivision.*

(3) *In every such case the returning officer shall forthwith deliver to each candidate in nomination a description of such polling division with the polling place appointed.* C. O. 3, s. 13 and 1899, c. 3, s. 8.

### POSTPONEMENT OF NOMINATION.

Death of candidate

**14.** *Whenever after being nominated any candidate dies before the close of the polls the returning officer on production to him of satisfactory evidence of the fact shall take any step necessary to stop all proceedings commenced and call for new nominations forthwith, at least five and not more than seven days' advice thereof being given by notice posted up in three conspicuous and public places in the locality where the nominations are ordered to be made and by delivering a copy of such notice to each living candidate nominated at the first nominations.*

(2) *In every such case the returning officer shall forthwith make to the clerk of the Executive Council a special and full report under oath of the causes which occasioned the postponement of the election.* 1899, c. 3, s. 9.

### NOMINATION.

Time and manner of nomination

**15.** At any time after the date of the writ of election and before twelve o'clock noon (standard time) of the day fixed for the nomination, any four or more electors may nominate a candidate by signing before any person authorised to administer oaths within the Territories or before the returning officer and causing to be filed with the returing officer a nomination paper in form F in schedule 2 to this Ordinance; and any vote given at the election for any person other than a candidate so nominated shall be null and void. C. O. 3, s. 15.

Vote for person not nominated

Nomination papers

**16.** A nomination paper shall not be valid or be acted upon by the returning officer unless:

Consent of candidate

(*a*) It is accompanied by the consent in writing of the person therein nominated (except when such person is absent from the electoral district when such absence shall be stated in the nomination paper); and

Deposit of $100

(*b*) A sum of $100 is deposited in the hands of the returning officer at the time the nomination paper is filed with him.

Receipt for nomination paper

(2) The returning officer shall (the foregoing requirements of this section being complied with) give his receipt for the nomination paper; and the said receipt of the returning officer shall in every case be sufficient evidence of the production of the nomination paper, of the consent of the candidate and of the payment herein mentioned.

How deposit may be made

(3) The returning officer shall accept the sum of money hereinbefore mentioned if it is tendered:

(*a*) In gold coin;

(*b*) In Dominion of Canada notes;

(*c*) In the notes of any bank chartered by the Parliament of Canada which at the time is redeeming its notes on demand; or

(*d*) Partly in one and partly in another or others of the description of moneys herein mentioned;

but he will not be obliged to accept such tender if any part of it consists of other descriptions of money than that herein specified.

Condition upon which deposit may be returned

(4) The sum so deposited by any candidate shall be returned to him in the event of his being elected or of his obtaining a number of votes at least equal to one-half the number of votes polled in favour of the candidate elected as decided in the final count.

Forfeiture of deposit

(5) If such candidate has not obtained the number of votes in the next preceding subsection mentioned, the said deposit shall be transmitted by the returning officer to the clerk of the executive council and by him deposited to the credit of the general revenue fund of the Territories. C. O. 3, s. 16.

### NOMINATION PROCEEDINGS.

Procedure at hustings

**17.** Every returning officer shall on the date of nomination and at the place fixed as aforesaid proceed to the hustings (which shall be at such a place that all the electors may have free access thereto) and at the hour of eleven of the clock (standard time) in the forenoon shall read or cause to be read publicly the writ of election; and shall forthwith read in an audible voice the nominations which he has received and from time to time until twelve o'clock of the day (standard time) shall so read further nominations as he receives them. C. O. 3, s. 17.

Closing nominations

**18.** At the hour of twelve o'clock (standard time) the returning officer shall declare the nominations closed and shall announce in an audible voice the names of the several candidates. C. O. 3, s. 18.

Procedure when only one canditate nominated

**19.** If at the close of the hour for receiving nominations only one candidate for the vacancy to be filled remains in nomination, the returning officer shall then and there:

1. Declare the said candidate duly elected;

2. Give such candidate or any agent of such candidate if the candidate is not present a certificate that such candidate has been duly elected;

3. Forward to the clerk of the executive council the writ of election together with a certificate in writing declaring such candidate duly elected and all ballot boxes, poll books and other books, forms, seals, materials and things sent to him to be used in the election and which have not been used. C. O. 3, s. 19.

**20.** If at the close of the hour for receiving nominations more than one candidate for the vacancy to be filled remains in nomination, the returning officer shall announce the day upon which a poll will be held and the day, hour and place at which the ballots will be counted which must not be more than eight days after the polling; and shall deliver to every candidate or to any person authorised in writing by the candidate or any of his nominators to act in his behalf a list of the candidates nominated with the colour assigned to each as specified in section 4 of schedule 1 to this Ordinance. **Procedure when more than one candidate nominated**

(2) *Colours shall be assigned to candidates in the order set forth in the said schedule in the order of nomination.* C. O. 3, s. 20 and 1899, c. 3, s. 10.

**21.** Any candidate nominated may withdraw at any time after his nomination and before the closing of the poll by filing with the returning officer a declaration in writing to that effect signed by himself; and any votes cast for a candidate who shall have so withdrawn shall be null and void; and in case after such withdrawal there should remain only one candidate for the vacancy to be filled then it shall be the duty of the returning officer to forthwith return as duly elected the candidate so remaining and to proceed as directed in section 19 hereof: **Candidate may withdraw his nomination**

Provided always that if a candidate withdraw at any time after his nomination he shall forfeit the money deposited by him and the returning officer shall transmit the same to the clerk of the Executive Council as provided in section 16 hereof. C. O. 3, s. 21. **but will forfeit his deposit**

### PROVIDING FOR THE POLLING.

**22.** Whenever a poll has been granted it shall be held on the *twenty-first day after the date of the writ* and shall be **Date and hours of polling**

opened at nine of the clock in the forenoon (standard time) and kept open until five of the clock in the afternoon (standard time) of the same day; and the votes at the several polling stations shall be given between the said hours of that day:

*Provided that in that portion of the electoral district of Kinistino lying east of range ten west of the second meridian and that portion lying north of township forty-nine the poll shall be held on the thirty-fifth day after the said date of writ.* C. O. 3, s. 22; 1899, c. 3, s. 11 and 1902, c. 3, s. 1.

Election notices

**23.** Immediately after *the expiration of six hours from the hour at which the nominations closed the returning officer shall finally complete the subdivision of the electoral district into polling divisions; and shall cause to be posted with all reasonable speed at the main entrance to each building to be used as a polling station* and at least two days before the day of voting an election notice setting forth the following information:

1. The names of the several candidates with the name of the colour assigned to each, which colour shall be assigned to the candidates in order of nomination, the order being that specified in section 4 of schedule 1 hereto;

2. The number, name, boundaries and polling place of each polling division as finally amended;

3. The name of the deputy returning officer for each polling division;

4. The day and hours of the day on which votes will be received;

5. The day, hour and place at which the votes will be counted and the return declared. C. O. 3, s. 23, and 1899, c. 3, s. 12.

Information to electors

**24.** The returning officer shall also cause to be posted up near to the aforesaid election notice copies of form G in schedule 2 to this Ordinance containing information to electors. C. O. 3, s. 24.

DEPUTY RETURNING OFFICERS.

Appointment of deputy returning officers

**25.** For the purpose of taking the votes at an election, the returning officer shall by writing over his signature appoint a deputy returning officer for each polling division (who shall be an elector of the district) and shall thereby require the deputy returning officer to open and hold the poll in such division at the time and place fixed in the election notice and according to the provisions of this Ordinance.

(2) Eevery deputy returning officer shall before acting as such take and subscribe before the returning officer or any person authorised to administer oaths within the Territories the oath in form H in schedule 2 to this Ordinance. * * * C. O. 3, s. 25 and 1899, c. 3, s. 13.

**Oath of deputy returning officers**

**26.** The returning officer shall cause to be supplied to each deputy returning officer at least one day before polling day the books, ballots, ballot boxes, coloured pencils, stamps and other material necessary under this Ordinance to the taking of a poll and shall take the receipt of the deputy returning officer therefor.

**Election materials to be supplied to deputy returning officers**

(2) The articles above mentioned may be sent by special messenger who shall act for the returning officer and for whose actions the returning officer shall be responsible as though the said actions were performed by himself.

**Transmission of material**

(3) The articles mentioned in this section and all other articles necessary to the taking of a vote at an election under this Ordinance shall be of the description given in schedule 1 to this Ordinance unless otherwise herein provided; or if provision has not been so made they shall be of such form as the Lieutenant Governor in Council may direct.

**Supplies to be as prescribed in schedule**

(4) A sufficient number of the forms and articles prescribed by this Ordinance as may be necessary shall be furnished by the clerk of the executive council to each returning officer for distribution to the several officers whose duties as defined by this Ordinance require their use.

**Forms to be provided**

(5) In case any of the copies of * * * notices, statements or other forms or articles (such as poll books, ballot boxes, ballots, envelopes, pencils or other materials required under the provisions of this Ordinance) are not available or are likely not to be available for use at the time and place required by this Ordinance, it shall be the duty of the returning officer, election clerk, deputy returning officer or poll clerk (as the case may be) to provide such copies of the necessary * * * notices, statements or other forms or articles (such as poll books, ballot boxes, ballots, envelopes, pencils or other material) as may be required at the time and place in which he is required to act under the provisions of this Ordinance as nearly as may be according to the directions given in this Ordinance and in schedule 1 hereto. C. O. 3, s. 26 and 1899, c. 3, s. 14.

**Provision if supplies not received at opening of poll**

Poll clerk, duties and oath

**27.** The deputy returning officer shall before the hour for opening the poll on the election day appoint over his signature a poll clerk to assist him in taking the votes or to act in his stead if necessary with all the powers and liabilities of the deputy returning officer, who before acting as such shall take the oath in form I in schedule 2 to this Ordinance before the deputy returning officer, the returning officer or any person authorised to administer oaths within the Territories. * * *

Deputy returning officers and poll clerks to be constables

(2) Each deputy returning officer and poll clerk appointed under this Ordinance shall be a constable during the day of polling. C. O. 3, s. 27 and 1899, c. 3, s. 15.

Place for polling

Proclamation and information to electors to be posted

**28.** The deputy returning officer shall prepare a polling place suitable for the purposes of this Ordinance within the building mentioned in the *election notice provided for in section 23* if that is practicable and if not then as nearly thereto as may be; and shall truly inform any elector inquiring of him the locality of such polling place; and at least one hour before the opening of the poll shall cause to be posted conspicuously (both outside and inside the building to be used as a polling place) copies of the *said election notice* and information to the electors provided in form G in schedule 2 to this Ordinance and also the names of himself and his poll clerk. C. O., s. 28 and 1899, c. 3, s. 16.

Procedure at opening of poll

Ballot box to be inspected and sealed

**29.** The deputy returning officer or his poll clerk shall (within five minutes before the time appointed for opening the poll) publicly and audibly announce the time of day and shall show the ballot box to the candidates, their agents or scrutineers or (in their absence) to any electors present who may claim to act for any of the candidates, so that they may see that it is empty; and he shall then in their presence lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal; and shall allow the persons permitted hereunder to remain in the outer room of the polling place to affix their seals; and he shall then place the box in view of all those present and shall keep it locked and sealed.

Opening packet with stamp

Objections

(2) After locking and sealing the ballot box he shall then (in presence of the candidates, their agents or scrutineers or in their absence in presence of any electors present who may claim to act for any of the candidates) after the same has been examined by them break the seal on the packet containing the stamp to be used by the deputy returning officer in marking the outside of the ballot papers; and he shall then and there

enter in the poll book any objections made to the hour of opening or to the place of polling or to the arrangements of the polling place demanded to be entered either by a candidate or his agent or by any elector. C. O. 3, s. 29.

### POLLING PLACE.

Outer and inner rooms

**30.** The polling place shall have an outer room suitable for the accommodation of the persons and things required for taking the vote under this Ordinance and (opening therefrom) an inner room in which the voter may mark his ballot screened from all observation:

Division of room by screen

Provided that where it is difficult or impossible to secure two rooms as required a single room divided by a screen or curtain so that the interior of the two parts shall be completely hidden from each other shall be sufficient. C. O. 3, s. 30.

Poll book and ballot box to be kept in outer room

**31.** In the outer room shall be kept the poll book and ballot box.

Inspection of poll book

(2) The poll book shall be open to inspection on demand of any candidate, agent or scrutineer for a reasonable time for the purpose of checking an entry.

Position of ballot box

(3) The ballot box shall be kept in a conspicuous position during the voting so that the scrutineers may see the ballots as they are dropped in; and it shall not during such voting be touched by any person except the deputy returning officer or poll clerk acting for him and only touched by him in such manner that the candidates, their scrutineers or agents can observe it if present. C. O. 3, s. 31.

Persons who may have access to inner room

**32.** Except as hereinafter provided no person shall have access to the inner room but the voter who is engaged in marking his ballot. C. O. 3, s. 32.

Contents of inner room

**33.** In the said inner room of the polling place there shall be a table suitable for use in marking ballots; and there shall be posted on the walls a copy of the information to electors provided in form G in schedule 2 to this Ordinance and a copy of the election notice provided in section 23 of this Ordinance. C. O. 3, s. 33.

Pencils, their colour and number, and the manner in which they are to be dealt with during the polling

**34.** A pencil of the colour assigned to each candidate according to the election notice provided for in section 23 of this Ordinance shall be furnished; and the full name of the candidate shall be marked plainly on the pencil of the colour which has been assigned to him according to the said election notice; and each of such pencils shall be handed by the deputy returning officer to the voter for the purpose of enabling him to mark his ballot paper as provided in section 48 of this Ordinance; and the voter shall with his ballot paper and before the said ballot paper is placed in the ballot box return to the deputy returning officer each of said pencils. C. O. 3, s. 34.

Inspection of inner room

**35.** On demand any candidate, agent or scrutineer shall be allowed to inspect the inner room of the polling place in the presence of the deputy returning officer or poll clerk; but such inspection may only be made when the said inner room is not occupied by a voter. C. O. 3, s. 35.

Note of inspection to be made in poll book

**36.** The deputy returning officer shall forthwith enter in the poll book:

(*a*) The time of inspection;

(*b*) The name of the person demanding it; and

(*c*) Any remarks regarding it that the person inspecting may require the deputy returning officer to record. C. O. 3, s. 36.

### AGENTS AND SCRUTINEERS.

Agents of candidates at polling places

**37.** Every candidate shall be entitled to be represented at each polling place by an agent who shall produce to the deputy returning officer his appointment as agent signed by the candidate or (in case of his absence from the Territories) by two of the electors nominating such candidate, which shall be filed by the returning officer.

Appointment of scrutineers

(2) The agent so appointed shall have the right to appoint over his signature one or more but not exceeding five scrutineers on behalf of his principal. C. O. 3, s. 37.

Persons who may remain in outer room of polling place

**38.** In addition to the deputy returning officer and his poll clerk, each candidate, his agent and one of his scrutineers or in the absence of the agent two scrutineers, an interpreter (if one is required) during the time for which his services are required and no longer, a peace officer if his services are required and not otherwise, and the voter actually engaged in voting, and no others, shall be permitted to remain in the outer room of the polling place. C. O. 3, s. 38.

### QUALIFICATION OF VOTERS.

Qualifications of voters

**39.** The persons qualified to vote at an election for the Legislative Assembly shall be the male British subjects by birth or naturalisation (other than unenfranchised Indians) who have attained the full age of twenty-one years, who have resided in the North-West Territories for at least the twelve months and in the electoral district for at least the three months respectively immediately preceding the time of voting.

Electors to vote where resident

(2) Except as hereinafter provided, an elector may only vote at the polling place of the polling division in which he is a resident at the time of voting. C. O. 3, s. 39.

VOTING.

Procedure when elector presents himself to vote

**40.** When a person claiming to be entitled to vote presents himself for the purpose of voting between the hours of nine o'clock in the forenoon and five in the afternoon of the polling day, the deputy returning officer shall without unnecessary delay cause him to be admitted to the outer room of the polling place and shall further proceed as follows:

1. He shall ask from the person desirous of voting:

    (*a*) His full name;

    (*b*) His occupation;

    (*c*) His place of residence; and shall

2. Cause the answers (which must be made in a voice audible to the scrutineers in the polling place, unless the person be dumb) to be entered in their proper places in the poll book which shall be kept in form J in schedule 2 to this Ordinance;

3. The name of each voter or person tendering a vote shall be numbered consecutively. C. O. 3, s. 40.

Voter may be required to subscribe to statement No. 1

**41.** A scrutineer or person acting as such may order the deputy returning officer to require any person tendering a vote to subscribe to statement No. 1 contained in form K of schedule 2 to this Ordinance after it has been read to him in an audible voice. C. O. 3, s. 41.

Voter may be required to subscribe to statement No. 2

**42.** A scrutineer or person acting as such may order the deputy returning officer to require any person tendering a vote to subscribe to statement No. 2 contained in form K of schedule 2 to this Ordinance after it has been read to him in an audible voice. C. O. 3, s. 42.

Record of statements made in poll book

**43.** If a person tendering a vote is required to sign a statement and does so, the poll clerk shall enter in the poll book after his name and residence the number of the statement made and the name of the person at whose request it was required to be made. C. O. 3, s. 43.

Statements to be filed

**44.** All statements made under sections 41, 42, 50 and 52 shall be filed by the deputy returning officer. C. O. 3, s. 44.

Refusal to subscribe statement

**45.** If a person who desires to vote refuses or fails to sign a statement when required to do so the poll clerk shall write after the entry of his name and place of residence in the poll book the words "Refused statement No. " (giving the number of the statement refused by him) and the name of the person at whose request he was required to sign such statement; and the person so refusing or failing to sign such statement shall at once leave the polling place and not enter it again and shall not be allowed to vote at that polling place. C. O. 3, s. 45.

Statement of marksman

**46.** If the person required to sign a statement is unable to sign his name, he shall make his mark which shall be certified by the signature of the deputy returning officer. C. O. 3, s. 46.

Interpreter may be employed

Oath

**47.** If the person desiring to vote is unable to understand the English language the deputy returning officer shall enter a remark to that effect opposite his name in the poll book and may allow him to retire from the polling place until a competent interpreter can be procured who shall (after taking the oath provided in form L of schedule 2 to this Ordinance before the deputy returning officer) interpret the proceedings to each voter in whose case he is employed.

Entry in poll book

(2) When an interpreter is employed his name shall be entered in the poll book with the particulars of the case in which he acted and any objections that may be made by any of the scrutineers or persons acting as such. C. O. 3, s. 47.

Initialling of ballot paper by deputy returning officer

**48.** If a person desirous of voting is not required to sign a statement or after he has done so, the deputy returning officer or the poll clerk (if he is acting as deputy returning officer) shall:

(*a*) Write his own initials and make an impression with the stamp provided for that purpose on the back of one of the ballot papers provided according to this Ordinance;

Voter to receive ballot paper and and pencils

(*b*) Hand such ballot paper to the voter together with all the pencils for marking the same provided for in section 34 of this Ordinance;

(c) Inform the voter in an audible voice of the names of the candidates and the colour which represents each candidate; and

(d) Direct the voter to go into the inner room and mark the front of the ballot paper (or the face other than that on which the initials of the deputy returning officer and the mark of the stamp appear) in the form of an X with the pencil the colour of which represents the candidate for whom he desires to vote and fold it according to the crease which appears in it so that the said initials shall be on the outside and the mark made by the voter shall be on the inside, first wetting the mucilage so that the ends so brought together shall remain fastened.

Directions to voter

(2) The voter shall then go into the inner room of the polling place and shall mark his ballot; and after complying with the directions of the deputy returning officer shall return to the outer room and hand his ballot together with the aforesaid pencils to the deputy returning officer, who shall (subject to the provisions of sections 49, 50 and 52) in plain view of the scrutineers drop the ballot into the ballot box.

Marking ballot by voter

(3) If any voter hands to the deputy returning officer any ballot marked on the outside with another mark than the said initials and stamp, the deputy returning officer shall immediately destroy the same and the said voter shall not be allowed to vote at that polling place.

When ballot returned is not same as issued by deputy returnin officer

(4) The voter shall leave the polling place as soon as his ballot has been placed in the ballot box and shall not enter it again unless in the discharge of some of the duties provided for in this Ordinance.

Voter then to leave

(5) The poll clerk shall write the word "Voted" in the poll book after the name and place of residence of every person who has voted as soon as his ballot has been deposited. C. O. 3, s. 48.

Entry in poll book

**49.** When a person voting has been required to sign a statement and has signed it, the deputy returning officer before receiving from him his marked ballot shall (if so requested by any person acting as scrutineer of any candidate) serve such person with a notice in the form M in schedule 2 hereto to appear at a time and place to be named in the notice to answer to a charge of having voted contrary to the provisions of this Ordinance; and shall give a copy of such notice to the person or persons so requiring such notice to be served.

Voter may be charged with illegal voting

Notice to answer charge

(2) The said notice may be given on behalf of one or more candidates.

Time for appearance to answer charge

(3) The time appointed in such notice for such appearance shall not be less than two days after the polling day.

Disposition of ballot in each case

(4) After serving the notice provided in the preceding subsections the deputy returning officer shall:

(*a*) Receive the ballot of the person desiring to vote;

(*b*) Place it in an envelope;

(*c*) Securely seal the envelope;

(*d*) Write upon it the name and place of residence of the person and his number as it appears in the poll book, the name and number of the polling place and his own name in full; and shall then

(*e*) Deposit it in the ballot box.

Entry in poll book

(5) The poll clerk shall enter in the poll book (in the next line below the particulars hereinbefore provided regarding the voter) a statement of:

(*a*) His having been served with such notice;

(*b*) The name of the person or persons at whose request the notice was served;

(*c*) The name of the candidate or candidates on whose behalf he or they were acting; and

(*d*) The place, day and hour where the person is required to appear. C. O. 3, s. 49.

Vote of election officers, how taken

**50.** Any deputy returning officer, poll clerk, candidate, agent or scrutineer who is resident in a polling division other than the one at which he is stationed on the polling day shall be permitted to vote at the polling station where he is so stationed provided he produces a certificate of his authority to act in such capacity from the returning officer, deputy returning officer, candidate or agent of a candidate (as the case may be) having authority under this Ordinance to appoint him and after signing statement No. 3 prescribed in form K of schedule 2 to this Ordinance; and a note shall be made of the particulars in the poll book opposite the voter's name.

Statement No. 2 to be subscribed if required

(2) On the demand of any scrutineer or person acting as such any of the persons mentioned in this section applying to vote shall be required to subscribe to statement No. 2 of said form K before being allowed to vote.

Election officer may be charged with illegal voting

(3) The provisions of section 49 shall apply to cases provided for in this section. C. O. 3, s. 50.

Vote of person unable to mark

**51.** In case of an application by a person claiming to be entitled to vote who is incapacitated by blindness or other physicial cause from marking his ballot paper, the deputy returning officer shall in the plain view of the candidates or their agents or scrutineers (if present) cause the vote of such person to be marked on a ballot paper for the candidate directed by such person and shall cause the ballot paper to be placed in the ballot box; and shall make a statement of the fact including the name of the candidate for whom the vote was cast opposite the voter's name on the poll book. C. O. 3, s. 51.

Person tendering vote under name already voted

**52.** If a person representing himself to be a particular elector whose name already appears in the poll book as having voted or as having refused to sign a statement applies to vote, unless the deputy returning officer is aware that the person who already presented himself to vote in that name had a right to do so and that the person now presenting himself to vote in the same name has also the right to do so or if directed to do so by any candidate, agent or scrutineer he shall require him to sign statement No. 1 provided in form K of schedule 2 to this Ordinance and shall enter his name and residence in the poll book, and shall give him a ballot paper as provided in section 48 and shall before receiving from him his marked ballot paper serve him with a notice in form M of schedule 2 to this Ordinance; and the deputy returning officer shall also cause a similar notice to be served on the person who had previously voted or applied to vote in that name.

Procedure

Ballot and entry in poll book in such cases

(2) The provisions of subsections 3, 4 and 5 of section 49 shall apply to cases provided for in this section. C. O. 3, s. 52.

Ballot spoiled before used

**53.** A person claiming to be entitled to vote who has inadvertently dealt with his ballot paper in such a way that it cannot be conveniently used as a ballot paper on delivering to the deputy returning officer the ballot paper so inadvertently dealt with and proving the fact of the inadvertence to the satisfaction of the deputy returning officer shall be given another ballot paper in the place of the ballot paper so delivered up; and the deputy returning officer shall forthwith destroy the spoiled ballot paper in the plain view of the candidates or their agents or scrutineers if present. C. O. 3, s. 53.

Procedure

### CLOSE OF POLL.

Time of close of poll

**54.** At the hour of five o'clock in the afternoon (standard time) the deputy returning officer shall declare the poll closed and shall not allow any more votes to be polled except the vote of the person who may be in some part of the act of voting at that hour.

Sealing of ballot box

(2) Immediately after the last ballot as above provided has been placed in the ballot box, the deputy returning officer shall fill up and securely seal the opening in the lid of the box through which the ballots were inserted. C. O. 3, s. 54.

Entry of objections

**55.** Immediately after the closing of the poll the deputy returning officer shall enter in *the poll* book a certificate that his entries in the poll book are correct and shall also enter any objections that the candidates or their agents or scrutineers may desire to have entered as to the conduct of the poll or as to its hour of closing. C. O. 3, s. 55 and 1899, c. 3, s. 17.

### COUNT BY DEPUTY RETURNING OFFICER.

Opening of ballot box and papers

**56.** The deputy returning officer shall then (in the presence of the candidates or their agents or scrutineers or such of them as may be present) open the ballot box and count the number of ballots contained therein; and shall note separately in the poll book the number of ballots that have been placed in envelopes and the unobjected ballots.

Count

(2) After having made the entry in the poll book he shall then proceed to open the unobjected ballots by breaking the mucilage; and shall count the number cast for each candidate according to the colour marked upon the *front* of each ballot paper; and shall enter the result of his count in the poll book.

Spoiled ballots

(3) If from any cause the intention of any voter has not been made apparent by the colour * * * of the mark or marks on the ballot paper or if the ballot paper is not marked with the initials of the deputy returning officer and the stamp required by section 48 such paper shall be considered a spoiled ballot paper; and all such spoiled ballot papers at each polling place shall be kept separatey from the counted ballots and shall be placed in a securely sealed package.

Discrepancy in number of ballots

(4) If the number of ballot papers found in the ballot box does not correspond with the number appearing in the poll book as having been cast, the fact shall be noted in the poll book. C. O. 3, s. 56 and 1899, c. 3, s. 18.

Duty of deputy returning officer after count

**57.** The deputy returning officer shall then return all the ballots to the ballot box and shall place within it a statement signed by himself as deputy returning officer containing:

(*a*) The name and number of the polling division;

(*b*) The number of ballots cast at that polling place according to the poll book; and

(*c*) The number of ballots actually contained in the ballot box;

and he shall then securely lock and seal the same in the presence of the candidates or their agents or scrutineers or in their absence in the presence of any electors present; and shall make out a statement in duplicate, one copy of which he shall keep and shall transmit the other to the returning officer, showing:

(*d*) The total number of votes cast;

(*e*) The total number of the unobjected ballot papers cast for each candidate;

(*f*) The number of spoiled ballots;

(*g*) The number of those the rightfulness of which is in dispute; with

(*h*) The several names and numbers appearing in the poll book of the voters whose vote is disputed, and the grounds on which each vote is disputed, and by and on behalf of whom;

a copy of which statement he shall deliver on demand to any candidate, agent or scrutineer. C. O. 3, s. 57.

Return to returning officer

**58.** The deputy returning officer shall forward to the returning officer by such means as may have been directed by the returning officer:

(*a*) The ballot box;

(*b*) The authority under which he acted as deputy returning officer; *and the oaths of office of the deputy returning officer and poll clerk*;

(*c*) The name of his poll clerk and the authority under which he acted;

(*d*) The names of the agents and scrutineers representing each candidate with the authority under which they acted; and

(*e*) The statements provided for in the preceding section;

(*f*) All other documents relating to the election which have been filed with or by him; and all materials used by him and the statements made by voters and the poll book, unless such statements and poll book are required for the purposes of a court of revision. C. O. 3, s. 58 and 1899, c. 3, s. 19.

## COURT OF REVISION.

Time, place and members of court of revision

**59.** At the time and place mentioned in the notice served upon any voter as provided in sections 49, 50 or 52 (which time shall be as soon as may be and the place and building used as polling place or another building as near thereto as may be) the deputy returning officer sitting with a justice of the peace whom he shall select or such justice as may have been appointed to sit with him by the Lieutenant Governor shall hear and dispose of any objections to the right of any voter of which notice was given during the polling day as provided in sections 49, 50 or 52.

Functions

Constitution or court

(2) The deputy returning officer sitting with such justice of the peace as above provided shall constitute a court of revision within the meaning of this Ordinance:

*Provided that whenever a question as to the validity of the vote given by the deputy returning officer is to be decided by the court of revision the said court shall be constituted by two justices of the peace sitting together.* C. O. 3, s. 59 and 1899, c. 3, s. 20.

Powers of court

**60.** The court of revision shall for the purpose set forth in the preceding section have all the powers of a court of record as to compelling the attendance of witnesses and their examination, the production of books and documents, and the taking of evidence under oath at any sittings held by it; and such court shall have generally for the purposes aforesaid all the powers of any court of record in the Territories. C. O. 3, s. 60.

Compelling attendance of witnesses, production of documents, etc.

**61.** The court of revision or either of the members thereof shall (on the application of any person who is supporting or opposing any objection, complaint or application which is to be considered at any of the courts or sittings hereinbefore provided for) issue a summons in the form N in schedule 2 to this Ordinance directed to any person required by such applicant as a witness thereat commanding such person to attend at such court or sittings and also commanding such person to bring any papers or articles in the possession or power of such person as may be required and to give evidence at such court or sittings relating to any matter connected with any such objection, complaint or application; and (in the event of such person not so attending after being served with such summons and paid or tendered his proper witness fees according to the scale allowed in tariff A of schedule 3 to this Ordinance) may (on due proof of the service of the summons and of the payment or tender of the proper witness fees and on receiving from the person causing the witness to be summoned the fees for committing and conveying such witness to prison) commit such witness to the common goal or other lawful place of imprisonment for a term not exceeding one month; and the fees for such commitment and conveyance shall be the same as when a person is committed to prison under a summary conviction.

Deposit to pay witness fees

(2) Before any summons is issued requiring the attendance of a witness at the court of revision the person desiring the attendance of such witness shall furnish the deputy returning officer with such sum of money as will be sufficient to pay the fees of the said witness as provided in the said tariff. C. O. 3, s. 61.

Right of voter to fees

**62.** The person whose right to have voted is the subject of objection shall not be paid witness fees until the court decides that he had a right to vote; and such witness fees shall be paid to the deputy returning officer at or before the opening of the court of revision by the person or persons at whose request the inquiry is held. C. O. 3, s. 62.

Default of appearance by voter

**63.** If the person whose right to vote is the subject of inquiry fails to appear personally or by agent according to the notice received by him on polling day his vote shall be disallowed and he shall be liable for the costs of all witnesses summoned in respect of his case:

*Provided that any candidate or the agent of any candidate in the event of any such person failing to appear in person or by agent shall have the right to act as the agent of such person.* C. O. 3, s. 63 and 1899, c. 3, s. 21.

Withdrawal of complaint

**64.** If at any time the person or persons at whose request the inquiry as to the rightfulness of any vote is being held notifies the deputy returning officer over his or their signatures that he or they wish the inquiry as to such vote to cease or in case the witness fees mentioned in section 61 of this Ordinance are not paid to the deputy returning officer as therein provided the inquiry shall cease forthwith and such person or persons shall pay all fees of witnesses summoned by the court of revision and the expenses of summoning such witnesses up to the time at which he or they gave notice that the inquiry should cease; and such vote shall be allowed. C. O. 3, s. 64.

Proof of naturalisation

**65.** In case any party to the inquiry requires a certified copy of the certificate of naturalisation of any voter whose vote is in question to be produced at such inquiry, he shall deposit with the deputy returning officer the necessary fees for procuring the same from the clerk of the court or other officer with whom such certificate of naturalisation is registered and a sum sufficient to cover postage and postal registration in sending for and forwarding such certified copy; and the deputy returning officer shall thereupon forthwith send by registered letter prepaid addressed to such clerk or other officer the said fee and a sum sufficient to cover the postage and postal registration to forward such certified copy together with the address to which it is requested such certified copy shall be sent, and a request to forward such certified copy to such address; upon receipt of which registered letter, fees and postage such clerk or other officer shall forthwith by registered letter prepaid, addressed as requested, forward a certified copy of the certificate of naturalisation.

Validity of certificate of naturalisation as evidence

(2) Nothing in this section contained shall be held in any way to affect as evidence the validity of a certificate of naturalisation at any time issued to the voter whose vote is in question. C. O. 3, s. 65.

Appearance in person or by agent

**66.** Any of the parties to any such inquiry may appear before the court of revision in person or by agent. C. O. 3, s. 66.

Question to be determined by court

**67.** The question to be determined at any inquiry by the court of revision hereby constituted shall be whether any statement made on polling day under the provisions of this Ordinance by the voter whose vote is the subject of the inquiry is false in whole or in part and if false in part in what respect it is so false.

Where statement is proved false

Where statement is proved true

(2) If it is proved to the satisfaction of the court that any voter whose vote is the subject of inquiry has made any such statement which is false in whole or in part the vote of such voter shall be disallowed; but if it be proved to the satisfaction of such court that every such statement so made by such voter is altogether true such vote shall be allowed.

Burden of proving truth of statements Nos. 1 and 3

(3) The burden of proving the truth of statements numbers 1 and 3 of form K if made by the voter shall lie on him; but the person challenging the vote shall be at liberty to produce evidence in rebuttal showing that such statements or either of them if made by the voter or some part thereof is untrue.

Burden of proving truth of statement No. 2

(4) If the voter has made statement number 2 of the said form it will be *prima facie* assumed to be a true statemnet; and the burden of proving that it or any part of it is untrue

shall lie on the person challenging the vote; but the voter on evidence being give to prove that the said statement or any part of it is untrue shall be at liberty to adduce evidence in rebuttal to show that it is true.

Decision to be given in open court

(5) The decision of the court shall be rendered in open court and if the members of the court fail to agree it shall be stated in open court. C. O. 3, s. 67.

Adjournment of court

**68.** Whenever (by reason of the absence of witnesses or other reasonable cause) it is impossible to hold or to conclude the inquiry on the day stated in the notice given on polling day, the court of revision shall cause the sitting to be adjourned from day to day until the inquiry is concluded:

Absence material testimony

Provided that the court (in case the adjournment is asked for on the ground of the absence of material testimony, documentary or otherwise) must be satisfied that the person whose duty it was to procure such testimony has used reasonable diligence to do so. C. O. 3, s. 68.

Court to make returns of decisions reached

**69.** The court shall forthwith after concluding its labours make a return of the decisions reached by it on the qualifications of the several voters whose right to vote is the subject of dispute; and if any vote has been disallowed it shall specify on what ground it has been disallowed; that is, if it has been disallowed on the ground that any statement made by the voter is false, it shall specify the statement; if on the ground that any such statement is false in part, it shall specify in what particular it is so false; and the court shall forward such return to the returning officer duly certified by both members of the court of revision, together with the poll books and statements pertaining to the election.

Where the court fails to agree, decision to be given by returning officer

(2) In case the members of the court of revision fail to agree, the full copy of the evidence certified to by both members of the court shall be forwarded with the return to the returning officer who shall render a decision.

Count by returning officer

(3) As soon as may be after the arrival of the returns and at least two days before he commences to count the ballots, the returning officer shall render his decision regarding any ballot upon which the court of revision has failed to agree; and shall in said decision if he disallows the vote state (as in subsection 1 of this section) on what ground he disallows it. C. O. 3, s. 69.

Court or returning officer may award costs

**70.** The court of revision (or the returning officer when the decision is made by him) may award costs to or against any party to the application, which costs shall only be for witness fees and expenses of summoning witnesses according to the scale of fees in tariff A of schedule 3 to this Ordinance; and moneys deposited under the provisions of section 65 hereof and the said costs may be levied by order of the said court or the returning officer (as the case may be) by distress in the same manner as distress is leviable upon a warrant issued on a summary conviction. C. O. 3, s. 70.

Expenses of court

**71.** The expenses of holding the court of revision shall be charged as a part of the general expenses of the election. C. O. 3, s. 71.

### APPEALS.

Examination by candidates of returns of courts of revision

**72.** As soon as the returning officer has received from any deputy returning officer the papers mentioned in section 69 hereof he shall on demand permit their examination by the several candidates or their agents; and shall furnish to each candidate or his agent a certified copy of any such document that they may demand. C. O. 3, s. 72.

Time for appeal

**73.** Appeals against the decision of the court of revision or of the returning officer rendered under section 69 hereof may be entered with the returning officer by any candidate or his agent or by any person whose vote has been disallowed at any time up to the hour of commencing the count of the votes by the returning officer; and such appeal shall be entered by notice in writing to the said returning officer:

Security for costs

Provided that no appeal shall be received by the returning officer unless the sum of $10 is deposited with him as security for the costs of the prosecution of such appeal. C. O. 3, s. 73.

### COUNT BY RETURNING OFFICER.

Custody of ballot box

**74.** The returning officer shall have the custody of the ballot box from the time it leaves the hands of the deputy returning officer and shall be subject to the penalty provided in section 128 of this Ordinance if it is opened by himself or any other person until the day and hour appointed for the counting of the votes or (in case the count is adjourned under section 75 hereof) until the day and hour of such adjournment. C. O. 3, s. 74.

Production of books, etc., at time fixed for court

**75.** The returning officer at the place and on the day and hour mentioned by him in his announcement on nomination day that a count would be held shall appear and produce the poll books, statement sheets of the deputy returning officers, statements of the courts of revision showing the result of the objections made before them to the validity of any votes cast and the ballot boxes of the several polling places.

Adjournment of court

(2) If all the returns have not been received from the deputy returning officers on the day appointed or if there are not two clear days between the day of receipt of the last return of the deputy returning officers or between the date of the latest decision of the returning officer under the provisions of section 69 hereof and the day appointed for the count, the returning officer may adjourn the count until a future day and may again from time to time in the like case adjourn from day to day until such returns are all in and until a time when two clear days have elapsed between the receipt of the last return of the deputy returning officers or the last decision of the returning officer under said section 69, whichever may have last happened. C. O. 3, s. 75.

Record book

**76.** The returning officer shall be provided with a suitable book to be called a "record book," in which he shall enter the particulars required by this Ordinance to be kept on record. C. O. 3, s. 76.

The count

**77.** The returning officer when the day and hour for counting the votes has arrived (whether according to his announcement on nomination day or in pursuance of any adjournment) shall then appear at the place designated and produce the proper book and material specified in section 75 hereof, and shall begin with polling place number 1 and shall note in his record book the number of ballots shown by the deputy returning officer's report of the polling place to have been cast; and he shall then open the ballot box and count the number of ballots contained therein. C. O. 3, s. 77.

Discrepancy in number

**78.** If the number is not the same as that mentioned in the return of the deputy returning officer, he shall make a note of that fact. C. O. 3, s. 78.

Count (1) appealed ballots

**79.** He shall then first count and keep separately those ballots regarding which an appeal has been finally entered, entering the names, numbers and full particulars in his record book. C. O. 3, s. 79.

(2) Illegal ballots not appealed

**80.** He shall then count and keep separately in a sealed package the ballots which the court of revision has decided were illegally cast which are not the subject of appeal making a full record of the same in his record book, and the said ballots (without being removed from their envelopes) shall be destroyed by fire at the close of the count in the presence of the candidates or their agents if present. C. O. 3, s. 80.

(3) Good ballots

**81.** He shall then count (without examination) and place in an open vessel the ballots which have been already counted by the deputy returning officer; and shall enter the number in his record book. C. O. 3, s. 81.

(4) Spoiled ballots

**82.** He shall then count the spoiled ballots and enter the number in his record book; and shall examine them and shall place such as he considers make apparent the intent of the voter *by the colour of the mark or marks on the inside or front of the ballot paper,* and have been properly initialled and stamped *on the outside or back* by the deputy returning officer among the ballots already counted by the deputy returning officer and shall enter the number in his record book; and shall keep separately and place in a securely sealed package those which he considers do not make apparent the intent of the voter or are not properly initialled or stamped and shall enter the number in his record book. C. O. 3, s. 82 and 1899, c. 3, s. 22.

(5 Ballots appealed and sustained

**83.** He shall then open the envelopes containing the ballots whose validity has been sustained by the court of revision or by himself and against which no appeal has been entered as provided in section 73 of this Ordinance; and after opening each such ballot (without examination) and placing it amongst the unobjected ballots shall enter the facts in full in his record book. C. O. 3, s. 83.

Count of votes

**84.** The returning officer (after mixing the ballots so that those put in last shall not be distinguishable) shall proceed to open the ballots and count the number cast for each candidate. C. O. 3, s. 84.

Ballots that are illegibly marked

**85.** In case a ballot is so marked that it is difficult or impossible to distinguish for which candidate it was intended to be counted it shall be placed with the ballots which do not make apparent the intent of the voter mentioned in section 82 hereof. C. O. 3, s. 85.

Announcement of result

**86.** When all the ballots contained in the ballot box have been counted, the returning officer shall announce the result and shall record the same in his record book; and shall proceed to seal up in separate parcels the counted ballots and the spoiled ballots; and these parcels with the ballots still the subject of appeal shall be returned to the ballot box which the returning officer shall seal so that it cannot be opened without breaking the seal; and the candidates or their agents shall also be permitted to similarly affix their seals. C. O. 3, s. 86.

Disposition of ballot papers

**87.** The returning officer shall then proceed similarly with the ballot box and returns of the second polling station and so on until all the ballots cast in the electoral district have been disposed of as hereinbefore provided. C. O. 3, s. 87.

Continuation of count

**88.** The returning officer shall then declare elected the candidate for whom the largest number of ballots have been counted; and shall deliver to all the candidates or to the agent of any candidate who may be present if the candidate is not present a written statement declaring the said candidate duly elected; and such statement shall specify the number of ballots counted for each candidate, the number of spoiled ballots and the number still the subject of appeal.

Declaration of result of polling

(2) In case of a tie the returning officer shall give a casting vote, which shall be entered in his record book. C. O. 3, s. 88.

Procedure in case of tie

**89.** The returning officer shall then—

Final duties of returning officer

1. Cause all the ballot boxes, poll books, record books and statements made by voters to be placed in the custody of the sheriff of the judicial district in which the electoral district or the largest part thereof is situated;

2. Hand over to the sheriff all moneys received by him as security for the costs in the prosecution of any appeals against the decisions of the courts of revision or of himself;

3. Notify the clerk of the supreme court for the judicial district in which the electoral district or the largest part thereof is situated of any appeals that have been entered against any decision of the courts of revision or of himself;

4. Forward to the clerk of the Executive Council—

- (*a*) The writ of election; together with *the oaths of office of the returning officer and election clerks; and*
- (*b*) A certificate in writing specifying the name of the candidate declared by him elected; and
- (*c*) All the books, papers, affirmations and other materials which have been returned to him, except such as have been placed in the sheriff's hands as above provided.

Candidate deemed elected

(2) The candidate so certified as elected shall be deemed to be duly elected until and unless a judge upon appeal or recount as hereinafter directed shall declare another candidate elected. C. O. 3, s. 89, 1899 c. 3, s. 23.

### HEARING OF APPEALS.

Appeals to judge

**90.** Any clerk of the supreme court being notified as provided in the last preceding section shall forthwith after being so notified bring such notification before the judge of the supreme court usually exercising jurisdiction in the judicial district in which the electoral district or the largest part thereof is situated; and such judge shall thereupon appoint a convenient time and place within such judicial district to hear such appeals and direct the clerk to give such notice to the persons interested in such appeals as he may direct and in such manner as he may direct; and the clerk shall give such notice accordingly. C. O. 3, s. 90.

Inquiry by judge

**91.** The judge shall sit at the time and place so appointed and hold an inquiry into the validity of the votes cast regarding which appeals have been made; and shall hear such evidence as may be adduced; and may affirm or reverse *with costs* the decision of the court of revision or of the returning officer (as the case may be) with respect to any such vote; and shall render such judgment with respect to the validity of such vote as such court or returning officer ought to have rendered.

Powers of judge

(2) The judge sitting in appeal shall be deemed a court and shall have and exercise all the powers and authorities by this Ordinance conferred upon the court of revision.

Clerk to attend

(3) The clerk of the supreme court for the judicial district within which the judge is sitting shall attend at such sittings and shall administer oaths to the witnesses, and otherwise act as clerk of the court. C. O. 3, s. 91 and 1899, c. 3, s. 24.

Subpœnas to be issued by clerk

**92.** All subpœnas issued for the attendance of witnesses before such judge sitting in appeal shall be issued by the said clerk under the seal of the supreme court for such judicial district and shall be deemed to be issued out of such court.

Witness failing to obey subpœna

(2) Any witness being duly served with any such subpœna and being paid or tendered the fees and conduct money provided in tariff B in schedule 3 hereto who fails without reasonable excuse to obey the behests of such subpœna shall be deemed to have committed a contempt of the supreme court.

(3) In case any such contempt is alleged to have been committed application may be made to a judge of the said supreme court usually exercising jurisdiction in such judicial district sitting in chambers for a writ of attachment against the person alleged to be guilty of such contempt; and such application shall be founded upon such material as chamber applications in such court are usually founded upon; whereupon such judge shall proceed on such application according to the chamber procedure in such court; and if on the return of the chamber summons and hearing the parties and evidence adduced the judge shall be of opinion that a contempt has been committed he shall order an attachment to issue out of such court against the party offending; and such attachment shall issue accordingly and the party shall be dealt with in the same way that he would be dealt with under and by virtue of any writ of attachment if sued out according to the practice of the court. **Attachment against such witness**

(4) If the judge is of opinion that no contempt has been committed he shall dismiss the summons with or without costs as he may direct; and any costs that are awarded shall be the same as are awarded by the practice of the court on similar applications. C. O. 3, s. 92. **Judge may dismiss summons** **Costs**

**93.** The ballot boxes, poll books, record books, statements of voters and all material or forms used at or in relation to the polling place at which the vote appealed against was cast shall be subject to the order of the judge during the trial of the appeal. C. O. 3, s. 93. **Election material to be subject to order of judge**

**94.** The costs to be allowed in the case of such inquiry shall be according to tariff B in schedule 3 to this Ordinance and shall be taxed by the clerk and shall be chargeable in the first place to the sum placed in the hands of the sheriff of the judicial district: **Costs**

Provided that the judge may instead (if the appeal is sustained) order the costs or a part thereof to be paid by the person whose vote is appealed against. C. O. 3, s. 94. **Proviso**

**95.** When the sum of $10 provided for in section 73 hereof has been applied in costs the judge may from time to time require the deposit by the appellant of a further sum which shall be fixed by him according to the probable expenses of the case; and if such deposit is not paid before continuing the proceedings the appeal may be dismissed with or without costs as the judge may direct. **Further deposit**

Any part of deposit remaining after appeal to be returned

(2) If at the conclusion of the appeal a part of the sum or sums deposited remains in the sheriff's hands after all orders against it have been paid it shall be returned to the person depositing the same. C. O. 3, s. 95.

Withdrawal of appeal

**96.** If at any time the appellant notifies the judge over his signature of his desire to withdraw an appeal the proceedings in that appeal shall forthwith cease; and the balance of the money deposited by the appellant after payment of the costs of the court up to that time shall be returned to him; but if there is not sufficient balance remaining to pay such costs the judge may in his discretion order the appellant to pay the deficiency to such party as he may by his order direct. C. O. 3, s. 96.

Costs

## COUNT OF APPEALED VOTES BY JUDGE.

Duty of Judge after hearing appeals

**97.** After the judge has concluded his inquiry as to all the appeals regarding the validity of votes cast which have been brought before him and rendered his decision, unless a recount has been demanded he shall—

Remove appealed ballots

1. Open a ballot box containing ballots which have been the subject of appeal before him and remove such ballots only;

Destroy unlawful ballots

2. Destroy, without opening the envelopes, the ballots which he has decided were unlawfully cast;

Open lawful ballots

3. Open the envelopes containing the ballots which he has decided were lawfully cast and taking out the ballots place them together in a vessel without examining them so that they may be mixed together and not distinguishable one from the other;

Count of vote

4. Take such ballots out of such vessel; open them and count the ballots which have been cast for each candidate, rejecting only such as do not make apparent the intent of the voter, which ballots so rejected he shall destroy;

Counted ballots

5. Return the ballots which he has counted to the ballot box and securely lock and seal the same;

Continuation

6. Proceed similarly with each of the ballot boxes of the electoral district containing ballots which have been the subject of appeal;

Record of vote

7. Record the number of ballots the objection to which he has sustained, the number cast for each candidate, and the number rejected as not having made apparent the intent of the voter;

Count of appealed ballots

8. Add to the total vote received by each candidate according to the return made by the returning officer the number of appealed ballots which he has decided have been cast for each candidate:

Previous casting vote, if any, not to be counted in first count

Provided that if a tie has occurred at the count by the returning officer and the returning officer has given a casting vote, such vote shall not be counted unless a tie occurs again in the count by the judge, in which case the vote of the returning officer shall be counted for the candidate for whom it was cast:

Casting vote to be given by returning officer if required

Provided further that if a tie has not occurred at the count by the returning officer and does occur at the count by the judge the returning officer shall then forthwith give a casting vote upon being requested to do so by the clerk at the instance of the judge;

Declaration of poll

9. Declare elected the candidate who has received a majority of all the ballots counted by himself and by the returning officer; and

Certify result to clerk of Executive Counc

Declaration final

10. Certify in writing to the clerk of the Executive Council the name of the candidate declared elected by him upon his count of appealed ballots as herein provided; and upon such certificate being given (unless a recount is demanded) such declaration shall be final and conclusive to all intents and purposes subject to the provisions of *The Controverted Elections Ordinance.* C. O. 3, s. 97.

Enforcement of orders of judge

**98.** Any order made by a judge acting on appeal shall be carried out and may be enforced as if it were an order of the supreme court in the judicial district within which the judge sits upon such appeal. C. O. 3, s. 98.

### RECOUNT BY JUDGE.

Demand of recount

**99.** Upon any candidate or his agent placing in the hands of the sheriff of the judicial district mentioned in section 89 of this Ordinance the sum of $50 with a demand in writing for a recount of the ballots cast in one or more polling divisions, any judge of the supreme court usually exercising jurisdiction in the judicial district where the election was held shall (after having disposed of any appeal regarding the validity of ballots that may have come before him) on application made to him as hereinafter mentioned hold a recount.

Deposit for and time of recount

(2) No application for a recount shall be entertained unless such application is accompanied by $50 as provided in this section and is made within thirty days after the declaration of

election by the returning officer if no appeals have been made from the decision of the court of revision or returning officer to the judge; and if any such appeals have been made then within thirty days after the judge has given his decision regarding such appeals.

Disposition of deposit

(3) The money deposited with a demand for a recount shall be disposed of by order of the judge in defraying the necessary expenses of holding the recount; and the remainder if any shall be returned to the person who deposited it.

Ballot boxes, etc., to be subject to order of judge

(4) The ballot boxes, poll books, books of record and other materials or forms used at the polling place respecting which the demand for a recount has been made shall be subject to the order of the judge during such recount. C. O. 3, s, 99.

Time and place of recount

**100.** Upon the party demanding a recount or any person on his behalf satisfying the judge by affidavit verifying the demand that a demand for a recount has been served on the sheriff as hereinbefore provided and that the sum of $50 has been deposited with such sheriff as provided in the last section the judge shall sign an appointment fixing a time and place within the said judicial district at which such recount shall be held and shall in such appointment direct upon whom and in what manner such appointment shall be served. C. O. 3, s. 100.

Procedure thereat

**101.** The judge shall attend at the time and place so. appointed and upon being satisfied by affidavit that his appointment has been duly served upon the persons directed by him to be served therewith he shall proceed with such recount:

Proviso if recount not properly demanded or security omitted

Provided however that it may be open to any candidate or agent to show by evidence either *viva voce* or upon affidavit as the judge may direct that the demand for a recount was not made or the sum of money was not deposited with the sheriff as provided by section 99 hereof or was not deposited within the time thereby prescribed; and upon the judge being satisfied that such demand was not so made or that such money was not so deposited he shall so find; and shall file with the said sheriff a written finding to that effect signed by him; and thereupon the said recount shall be abandoned. C. O. 3, s. 101.

Count of ballots

**102.** In case the judge proceeds with the recount he shall (in the presence of such of the candidates of their agents appointed as such in writing as may be present) open one of the ballot boxes regarding which a recount has been demanded and shall count the number of ballots contained therein; and shall note the number in a book and shall place the ballots in an open vessel. C. O. 3, s. 102.

**103.** The judge shall then proceed to examine and count the ballots for the several candidates as it shall appear to him to have been the intent of the several voters marking the ballots, rejecting only those by which the voter has not made his intent apparent *by the colour of the mark or marks on the inside or front of the ballot paper* or which have not been properly initialled or stamped *on the outside or back.* C. O. 3, s. 103, and 1899 c. 3, s. 25.

**Examination and count of ballots**

**Illegal ballots**

**104.** The judge shall then return the ballots to the ballot box from * * * which they were taken; and shall securely lock and seal the same; and shall cause it to be returned to the custody of the sheriff of the judicial district in which the electoral district is situated. C. O. 3, s. 104 and 1899, c. 3, s. 26

**Particulars to be recorded**

**Disposition of ballots and boxes after recount**

**105.** He shall then proceed similarly with each of the other ballot boxes regarding which a recount has been demanded. C. O. 3, s. 105.

**Other ballot boxes**

**106.** to **111.** * * * * * *

**112.** The costs of the recount * * * * beyond the amount of the deposit required by section 99 of this Ordinance shall be charged to the general expenses of the election according to such regulation as to fees and otherwise as may be prescribed from time to time by the Lieutenant Governor in Council. C. O. 3, s. 112 and 1899, c. 3, s. 28.

**Costs of recount, etc.**

**Election fees**

**113.** * * * * * * *

**114.** The judge shall prepare a statement showing—

**Statement by judge**

(*a*) The total number of ballots which the return of the returning officer and the records of the count of appealed ballots (if such has been held) showed should be counted in the several classes in which they are comprised;

(*b*) The number of ballots actually counted by him;

(*c*) The number rejected; and

(*d*) The number counted for each candidate;

with a declaration of the election of the candidate receiving a majority of the votes cast which candidate shall forthwith be held to be duly elected; and such judge shall thereupon certify in writing to the clerk of the Executive Council and to the sheriff mentioned in section 89 hereof the name of the candidate declared elected by him on such recount; and upon such certificate being given such declaration shall be final and conclusive to all intents and purposes subject to the provisions of *The Controverted Elections Ordinance.*

His certificate

In case return altered no liability on person first returned

(2) In case a candidate declared elected by the judge is other than the one declared elected by the returning officer no penalty or damages shall be incurred by the person at first declared elected by reason of any act done by him as duly elected representative of the electoral district.

In case of a tie

(3) The casting vote of the returning officer (if he has given one) shall not be counted by the judge in such recount unless there shall be a tie on the said recount in which case the casting vote of the returning officer shall be counted as having been cast for the candidate for whom it was cast the first time he cast it.

Casting vote if required

(4) If the returning officer has not given a casting vote and the recount of the judge results in a tie, the returning officer shall forthwith on the written request of the judge give a casting vote. C. O. 3, s. 114.

## MISCELLANEOUS.

Where judge is disqualified or unable to act

**115.** Whenever the judge usually exercising jurisdiction in the judicial district in which the election is held is disqualified by reason of relationship to any of the parties interested or from any other cause from acting either on an apppeal or on a recount or is unable from sickness, absence, or any other cause to act on any appeal or recount, any other duly qualified judge of the supreme court may act in his stead. C. O. 3, s. 115.

No candidate to resign pending proceedings

**116.** No candidate shall be permitted to resign after the close of the polling until the question as to which candidate has been elected has been finally determined by virtue of the provisions of this Ordinance. C. O. 3, s. 116.

No candidate to resign pending election petition

**117.** No person elected a member of the Legislative Assembly shall be permitted to resign his seat pending any proceedings against him under *The Controverted Elections Ordinance* C. O. 3, s. 117.

**118.** When all proceedings in any way affecting the election are concluded, the sheriff to whom the ballot boxes, poll books, record books and statements made by voters were delivered under the provisions of section 89 hereof shall return such ballot boxes, poll books, record books and statements made by voters to the clerk of the Executive Council with a certificate that such proceedings are concluded; and such clerk shall thereupon open the said ballot boxes and destroy the ballots therein with fire. C. O. 3, s. 118.

**Duty of sheriff when proceedings are ended**

**119.** The clerk of the Executive Council (on receiving the return from the returning officer of the name of the candidate elected if no poll has been held or if a poll has been held on receiving from the sheriff the certificate mentioned in the last preceding section) shall as soon as he can conveniently do so give notice in the official gazette of the Territories of the name of the candidate elected and shall also give notice to the clerk of the Legislative Assembly.. C. O. 3, s. 119.

**Notice of return to be published in *Gazette***

FEES AND EXPENSES OF RETURNING OFFICERS, ETC.

**120.** Except as hereinafter provided the fees in tariff C in schedule 3 to this Ordinance mentioned in respect to the several matters therein contained and no others shall be allowed to the several officers and persons therein mentioned respectively, for the services and disbursements in the said schedule mentioned. C. O. 3, s. 120.

**Fees to officers, etc.**

**121.** *Where no specific legislative appropriation has been made for so doing* the said fees, allowances and disbursements, together with reasonable expenses incurred for services rendered under this Ordinance shall be paid over by warrant of the Lieutenant Governor directed to the Territorial Treasurer out of the general revenue fund of the Territories; and shall be distributed to the several officers and persons entitled to the same under the provisions of this Ordinance through the said Treasurer. C. O. 3, s. 121 and 1899, c. 3, s. 29.

**To be paid by warrant**

**122.** Anything to the contrary in this Ordinance notwithstanding the Lieutenant Governor *in Council* may direct the payment * * * of such sums (over and above the allowance authorised by the two next preceding sections of this Ordinance) as may be required to pay the expenses reasonably incurred by any person for services rendered under this Ordinance and also reasonable fees and allowances for any extraordinary services rendered by any person thereunder. C. O. 3, s. 122 and 1899, c. 3, s. 30.

**Reasonable expenses for extraordinary services**

### PENALTIES.

Acts prohibited

**123.** No person shall directly or indirectly by himself or by any other person on his behalf do or commit any of the following acts:

Give, etc., consideration to induce voter to vote or refrain from voting

1. Give, lend or agree to give or lend or offer or promise any money or valuable security or promise to procure or endeavour to procure any money or valuable consideration to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election;

Give place or employment to induce voter to vote or refrain from voting

2. Give or procure or agree to give or procure or offer or promise any office, place or employment or promise to procure or to endeavour to procure any office, place or employment to or for any voter or to or for any other person in order to induce any voter to vote or refrain from voting at any election;

Make gift, etc., in order to procure return of any person

3. Make any gift, loan, offer, promise, procurement or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person as a member of the Legislative Assembly or the vote of any voter at any election;

Advance, etc., money for above purposes

4. Advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended for any of the purposes mentioned in the preceding parts of this section or knowingly pay or cause to be paid any money to any person in discharge or repayment of any money wholly or in part expended for any of the said purposes;

Make use of force, etc., to induce voter to vote or refrain from voting

5. Make use of or threaten to make use of any force, violence or restraint or inflict or threaten the infliction by himself or by or through any other person of any injury, damage, harm or loss or in any manner practice intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election or by abduction, duress or any fraudulent device or contrivance impede, prevent or otherwise interfere with the free exercise of the franchise of any voter or thereby compel, induce or prevail upon any voter either to give or refrain from giving his vote at any election.

Penalty

(2) Any person convicted of a breach of this section shall be liable to a penalty not exceeding $200. C. O. 3, s. 123.

**No candidate to pay, etc., for expenses incurred for meat, etc., in order to be elected**

**124.** No candidate shall by himself or by or with any other person or by any other ways or means on his behalf at any time either before or during any election directly or indirectly give or provide or cause to be given or provided or be accessory to the giving or providing or pay wholly or in part any expense incurred for any meat, drink, refreshment or provision to or for any person in order to be elected or for being elected or for the purpose of influencing such person or any other person to give or refrain from giving his vote at such election; and any such candidate convicted of contravening this section shall be liable to a penalty not exceeding $200. C. O. 3, s. 124.

**Penalty**

**No candidate to pay for horse hire**

**125.** No candidate shall nor shall any person on his behalf hire, promise to pay or pay for any horse, team, carriage or other vehicle to convey any voter or voters to or from the poll or to or from the neighbourhood thereof at any election or pay or promise to pay the travelling or other expenses of any voter in going to or returning from any election; and any person convicted of contravening this section shall be liable to a penalty not exceeding $100. C. O. 3, s. 125.

**Penalty**

**Election shall be voided for illegal acts of candidate**

**126.** If any court, judge or other tribunal sitting or holding an inquiry under *The Controverted Elections Ordinance* reports to the clerk of the Executive Council that any candidate at an election has by himself or by his agent whether with or without the actual knowledge and consent of such candidate committed any act in contravention of sections 123,124 or 125 of this Ordinance, the election of such candidate (if he has been elected) shall be an undue election and shall be void and shall be set aside and a new writ of election shall be issued to fill the vacancy so created unless such court, judge or other tribunal certifies that another candidate was duly elected at such election in the stead of the candidate whose election is so voided. C. O. 3, s. 126.

**Illegal acts by voter**

**127.** No person shall before or during any election directly or indirectly himself or by any other person on his behalf do or commit any of the following acts:

**Receive, etc., consideration to vote or refrain from voting**

1. Receive, agree, contract or ask for any money, gift, loan or valuable consideration, office, place or employment for himself or any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

**Receive consideration for having voted**

2. Receive or ask for any money or valuable consideration for having voted or refrained from voting or for having induced any other person to vote or refrain from voting at any election;

Hire horse to candidate or agent

3. Hire or offer for hire any horse, team, carriage or other vehicle to any candidate or to any agent of any candidate for the purpose of conveying any voter or voters to or from the polling place or to or from the neighbourhood thereof.

Penalty

(2) Any person convicted of a breach of this section shall be liable to a penalty not exceeding $200. C. O. 3, s. 127.

Failure of officials to carry out duty

Penalty

**128.** Any person appointed as returning officer, election clerk, deputy returning officer or poll clerk, who fails to carry out any of the duties imposed upon him by this Ordinance or who contravenes any of its provisions shall be liable to a fine not exceeding $500 and costs or to imprisonment for a term not exceeding one year or both.

Improper use of stamp

(2) Any deputy returning officer or poll clerk or any other person who uses the stamp mentioned in section 48 of this Ordinance to mark any ballot paper other than the one handed to the voter by the deputy returning officer or poll clerk as provided in the said section 48 shall be subject to the penalty provided in the first part of this section; and in any proceedings taken hereunder proof that any ballot paper has been stamped other than as provided in the said section 48 shall be held to be *prima facie* evidence that such ballot paper was so stamped by the deputy returning officer or if the poll clerk was acting for the deputy returning officer then by such poll clerk.

Improper conduct of voter

Penalty

(3) If any person fails to return to the deputy returning officer the ballot paper or each of the pencils handed to him by the deputy returning officer as provided in the said section 48 or hands to the deputy returning officer to be placed in the ballot box any paper other than the ballot paper as provided in the said section or by any means places or causes to be placed in the ballot box any ballot paper other than as provided in the said section or by any means takes or causes to be taken from a ballot box any ballot paper except as directed under the provisions of this Ordinance or defaces or destroys any ballot paper after its having been initialled or stamped by the deputy returning officer except as provided in section 53 hereof shall be liable to the penalty provided in the first part of this section. C. O. 3, s. 128.

Impropor conduct of other persons

**129.** Unless in this Ordinance otherwise provided any other person than those mentioned in the preceding section who contravenes any of the provisions of this Ordinance or attempts in any way to hinder its provisions from being carried out shall be liable to a fine not exceeding $100 and costs or to imprisonment for a term not exceeding three months or both. C. O. 3, s. 129. Penalty

**130.** If the number of ballots found in the ballot box of any polling division at the count by the deputy returning officer is not the same as the number shown by the poll book of that polling division to have been cast, the deputy returning officer and poll clerk shall each be liable to a fine of $100 and costs or to imprisonment for a term not exceeding three months or both: Discrepancy in number of ballots Penalty

Provided however if during the trial of the complaint it can be shown that the discrepancy was caused by some person or persons other than the deputy returning officer or poll clerk they may be relieved from the aforesaid penalty. C .O. 3, s. 130. Proviso

**131.** Any person who attempts to violate the secrecy of the ballot by marking a ballot in a peculiar manner or by showing it to any one after its being marked or instigating any voter to peculiarly mark or to show his marked ballot shall be liable to a fine not exceeding $100 and costs or to imprisonment for a term not exceeding three months or both. C. O. 3, s. 131. Violation of secrecy of ballot Penalty

**132.** Everyone who at an election of a member of the Legislative Assembly does any of the following acts that is to say: Voting more than once

(*a*) Applies to vote in the name of some other person whether such name is that of a person living or dead or of a fictitious person; or Personation

(*b*) Having voted once at any such election applies to vote at the same election in his own name,

is guilty of an offence and liable to a penalty not exceeding $100. C. O. 3, s. 132.

**133.** Penalties under this Ordinance may be recovered on summary conviction before two justices of the peace. C. O. 3, s. 133. Recovery of penalties

**134.** The provisions of schedule 1 hereto shall be read as part of this Ordinance. C. O. 3, s. 134. Schedule No. 1

## SCHEDULE 1.

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### BALLOT PAPER.

1. The ballot paper used at all elections under the provisions of this Ordinance shall be of white colour, of good cardboard, measuring an inch by two inches, having a crease cut half way through the cardboard midway between the two ends on the side which shall be used as the back of the ballot paper; and on the front of the ballot paper at one end and on one side mucilage shall be placed so that when the mucilage is wetted and the ballot paper folded according to the crease appearing on the back the mucilage will cause it to remain folded.

### BALLOT BOX.

2. The ballot box shall be of metal or wood, and shall be a cube of not less than six inches on the outside, except that the lid may project half an inch over the box on the side at which it is locked.

METAL.—If the ballot box is made of metal, the four sides and bottom shall be joined together by a folded joint so as to be perfectly water-tight. The lid shall be fastened to the box at one of the sides by a hinge or hinges, which shall be securely riveted and soldered or brazed to both the lid and the box. On the outside of the box opposite the hinges shall be fastened a metal staple in such a manner that it can only be removed by cutting it off or by cutting away part of the box. On the same side of the lid shall be two corresponding staples fastened as above provided so that when the box is closed the hook of a padlock may pass through all three of the staples, so as to hold the lid of the box tightly and securely closed.

WOOD.—If the ballot box is made of wood, the sides shall be fastened together with rivets and the hinges shall be fastened on with the same, so that the sides cannot be taken apart or the hinges taken off without cutting the rivets or cutting away the wood of the box. The staples necessary to securely fasten the lid of the box, as provided in the case of metal ballot boxes, shall be riveted in their places so that they cannot be removed without cutting the rivets or cutting away the wood of the box.

OPENING.—There shall be an opening in the lid of the ballot box one and one-quarter inches in length by one quarter of an inch in width, through which opening the ballots shall be placed in the box, and there shall be no other opening in the material of which the box is composed when the lid is closed. There shall be provided a piece of cork or wood to completely fill the opening and sealing wax to securely seal over the opening as soon as the poll has been closed.

PADLOCK.—There shall be a padlock provided for each ballot box used at the election, and each padlock shall differ from every other one used at that election, so that the key used for one lock will not open any other lock used on a ballot box at that election; and only one key for each padlock shall be forwarded to any returning officer.

NAMES.—The name of the electoral district and the name and number of the polling division at which the ballot box is used shall be plainly painted or otherwise securely marked on it, so that it may be easily distinguished from the ballot box of any other polling place.

### ENVELOPES.

3. The envelopes required for the purpose of enclosing disputed ballots shall be of paper sufficiently tough so that in writing upon the said envelopes the particulars required by this Ordinances the pen or pencil used may not penetrate or tear the paper. The envelopes shall be made with one end open and with a flap at that end upon which there shall be mucilage, so that by wetting the mucilage and folding the flap over, as with an ordinary envelope, the envelope will remain closed.

### PENCILS.

4. *The pencils used under the provisions of sections 26 to 53 inclusive of this Ordinance shall be of colour as follows in each electoral district: If there are two candidates the colours shall be blue and red; if three, yellow shall be added; if four, black shall be added; if five, brown shall be added; if six, green shall be added; and if there are more than six, such additional colours of pencils shall be provided as the Lieutenant Governor may direct. The handle of each pencil shall be of wood and shall not be less than six inches in length and of sufficient thickness to enable the name of any candidate to be placed upon one side in characters not less than three-eighths of an inch in depth. The wood of the pencil shall be painted the same colour as that of the marking material it contains, which shall be inserted securely in the handle so that it cannot be removed without cutting or breaking away the wood.*

### STAMPS.

5. The stamp used under the provisions of sections 26 and 48 of this Ordinance shall be made of rubber or other similar material, and shall be of a design differing in form for each general election. The stamp shall be forwarded to each returning officer in a separate packet securely fastened and sealed so that it will be impossible to discover the design of the stamp without breaking the seal on the packet. C. O. 3, Schedule 1, and 1899, c. 3, s. 31.

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## SCHEDULE 2.

### FORM A.

*Writ of Election.* (*Sec. 4.*)

To of in the Electoral District of in the North-West Territories:

Whereas His Honour the Lieutenant Governor of the North-West Territories has seen fit under and by virtue of the provisions of *The Territories Elections Ordinance* to order the issue of a Writ of Election for the said Electoral District of addressed to you, whom he has been pleased to select to perform the duties of Returning Officer;

You are therefore commanded that you do cause election to be made, according to law, of a member to serve in the Legislative Assembly of the North-West Territories for the said Electoral District of ; that you do cause the nomination of candidates at such election to be held at in the said Electoral District on the day of next; and that you do cause the name of such member, when so elected, to be certified to me.

Given under my hand at Regina in the said North-West Territories this day of , 1 .

....................................
*Clerk of the Executive Council.*

INDORSEMENT.

Received the within writ on the day of 1 .

*A.B.,*
*Returning Officer.*

## FORM B.

*Oath of Returning Officer.* (*Sec. 5.*)

I, the undersigned *A.B.,* Returning Officer for the Electoral District of , solemnly swear (*or if he is one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I am legally qualified according to law to act as Returning Officer for the said Electoral District of , and that I will act faithfully in that capacity, without partiality, fear, favour or affection. So help me God.

*A.B.,*
*Returning Officer.*

Sworn (*or* affirmed) before me
at in the North-
West Territories this day
of A.D. 1
(*Signature of officer administrating oath.*)

*Certificate of Returning Officer having taken oath of office struck out under Sec. 33 of Cap. 3 of 1899.*

## FORM C.

*Commission of an Election Clerk.* (*Sec. 6.*)

To *E.F.* (*set forth his legal addition and residence*).

Know you that in my capacity of Returning Officer for the Electoral District of , I have appointed and do hereby appoint you to be my election clerk, to act in that capacity according to law, at the approaching Election for the said Electoral District of , which election will be opened by me on the day of the month of 1 .

Given under my hand this day of in the year 1 .

*A.B.,*
*Returning Officer.*

## FORM D.

*Oath of Election.* (*Sec. 8.*)

I, the undersigned *E. F.,* appointed Election Clerk for the Electoral District of ,solemnly swear (*or if he is* *one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I will act faithfully in my said capacity as Election Clerk, and also in that of Returning Officer if required to act as such according to law, without partiality, fear, favour or affection. So help me God.

*E. F.,*
*Election Clerk.*

Sworn (*or affirmed*) before me
at in the North-
West Territories this day
of A.D. 1 :
(*Signature of officer administrating oath.*)

*Certificate of Election Clerk having taken oath of office struck out under Sec. 33 of Cap. 3 of 1899.*

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## FORM E.

*Notice of Election given by the Clerk of the Executive Council.*

(*Section 3a.*)

THE TERRITORIES ELECTIONS ORDINANCE.

Public notice is hereby given that His Honour the Lieutenant Governor has been pleased, under the authority of *The Territories Elections Ordinance,* to direct the issue of Writs of Election, bearing date the day of 1 , to the persons hereafter to be named, commanding each of them to cause election to be made, according to law, of a member to serve in the Legislative Assembly of the North-West Territories for the Electoral Districts in which they are respectively appointed Returning Officers; and that in order to comply with the requirements of the aforesaid Writs of Election the presence of the Electors of each such Electoral District is required at the place named below as the place in the Electoral District where nominations are to be made, on the day of the month of , 1 , from eleven of the clock in the forenoon until twelve of the clock at noon (standard time) for the purpose of nominating a person to represent them in the Legislative Assembly of the North-West Territories; and that in case more than one candidate remains in nomination in any Electoral District the poll will be opened and held on the day of the month of , 1 , from the hour of nine of the clock in the forenoon until five of the clock in the afternoon in each polling division of such Electoral District as may be set apart by the Returning Officer under the provisions of the said Ordinance.

The above mentioned Writs of Election are directed as follows, namely:

To *A.B.*, Returning Officer for the Electoral District of *C*, nominations to be made at *D* (*describing with reasonable certainty the location of the building within which nominations are to be made.*)

(*And so continuing for all the other Electoral Districts in which elections are ordered.*)

Of which all persons are hereby required to take notice and govern themselves accordingly.

*E. F.,*
*Clerk Executive Council.*

Dated at the Executive Council Chamber this
day of 1 . 1899, c. 3, s. 32.

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## FORM F.

*Nomination Paper.* (*Sec. 15.*)

We, the undersigned electors of the Electoral District of hereby nominate (*name, residence and addition of the person nominated and present location if absent from the Electoral District*) as a candidate at the election now about to be held of a member to represent the said Electoral District in the Legislative Assembly of the North-West Territories. (*If the person noimnated is absent from the Electoral District it must be stated here.*)

Witness our hands this day of 1
(*Signature with residence and additions.*)

Signed by the above subscribed electors before me

*A.B.,*
*Justice of the Peace, Commissioner for taking affidavits, Notary Public* or *Returning Officer,* as the case may be.

I, the said *C.D.*, nominated in the foregoing nomination paper, hereby consent to such nomination.

Signed in the presence of
*Name of witness to candidate's signature.* *E.F.* } *Name of candidate.*

## FORM G.

*Information to Electors.* (*Secs. 24, 28, 33.*)

The persons qualified to vote are male British subjects by birth or naturalisation (other than unenfranchised Indians) who have attained the full age of twenty-one years and who have resided in the North-West Territories for at least the twelve months and in the Electoral District for at least the three months, respectively, immediately preceding the time of voting.

An elector can vote only at the polling place for the polling division in which he resides.

The voter is to vote only for one candidate

The voter after receiving his ballot paper and the pencils provided for marking the said ballot paper from the deputy returning officer will go into the inner room of the polling place, select from the pencils provided the one of the colour representing the candidate for whom he desires to vote and bearing his name, and with such pencil shall make a mark in the form of an X on the blank face of the ballot paper.

The voter will then fold the ballot paper at the crease thereon so that the mark made by him will be folded inwards. He will then moisten the gum or mucilage on the ballot paper and press the gummed end to the end against which it is folded, causing it to adhere thereto. The voter will then deliver the ballot paper with the aforesaid pencils to the deputy returning officer who will place the paper in the ballot box. The voter will then forthwith quit the polling station.

If a voter inadvertently spoils a ballot paper he may return it to the proper officer who, on being satisfied of the fact, will give him another.

If a voter votes for more candidates than he is entitled to vote for or more than once for any candidate his vote will be void and cannot be counted, and he shall be liable to a fine of $100.

Any voter who attempts to violate the secrecy of the ballot by marking his ballot paper in a peculiar manner, or by showing it to any person after marking it, and any person who instigates any voter so to mark his ballot or to show such ballot after being marked shall be liable to a fine of $100.

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## FORM H.

*Oath of Deputy Returning Officer.* (*Sec. 25.*)

I, the undersigned *G.H.*, appointed Deputy Returning Officer for the polling division No. of the Electoral

District of , solemnly swear (or, *being one of the persons permitted by law to affirm in civil cases,* solemnly affirm) that I will act faithfully in my said capacity of Deputy Returning Officer without partiality, fear, favour or affection. So help me God.

*G.H.,*
*Deputy Returning Officer.*

Sworn before me, etc.
(*Signature of officer administrating oath.*)
*Certificate of a Deputy Returning Officer having taken the oath of office struck out under Sec. 33 of Cap. 3 of 1899.*

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## FORM I.

### *Oath of Poll Clerk. (Sec. 27.)*

I, the undersigned *I.J.,* appointed Poll Clerk for the polling division No. , of the Electoral District of do silemnly swear (or, *if he is one of the persons permitted by law to affirm in civil cases,* do solemnly affirm) that I will act faithfully in my capacity of Poll Clerk, and also in that of Deputy Returning Officer if required to act as such according to law, without partiality, fear, favour or affection. So help me God.

*I.J.,*
*Poll Clerk.*

Sworn before me, etc.
(*Signature of officer administrating oath.*)
*Certificate of Poll Clerk having taken the oath struck out under Sec. 33 of Cap. 3 of 1889.*

## FORM J.

## POLL BOOK. (*Sec. 40.*)

North-West Territories. Electoral District of..................Polling Division No..................
at the Election held on the..................day of..................A. D. 1..................

| No. | Name of Voter | Occupation of Voter | Residence of Voter | If Statement demanded by whom | If Statement demanded on behalf of whom | No. of Statement | Write the Word " declared " or " refused to declare " as the case may be | Write the word "voted" if ballot is placed in ballot box | Remarks as to employment of interpreter, spoiled ballot papers, blind persons, etc. |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | |

Remarks at opening of Poll

Remarks as to conduct of Poll examination of inner room, &c.

I Deputy Returning Officer (*or* Poll Clerk acting as Deputy Returning Officer) for
Polling Division No. of the Electoral District of hereby certify and declare: That
the entries appearing in this Poll Book are correctly made; That the number of ballots cast at the polling place of Polling Division
No. of the Electoral District of on this day of 1 ,
according to the provisions of *The Territories Elections Ordinance* was ; That I have opened the ballot box for
the aforesaid polling division in the presence of and have counted the ballots therein and
that there were ballots therein; That I have counted the number of objected ballots therein and that there
were such ballots; That I have counted the number of unobjected ballots therein and that there
were such ballots; That I opened and examined the said unobjected ballots and that
were so marked that the intent of the voter using such ballots had not been made plain; That of the unobjected ballots cast by which the
intent of the voter had been made plain were marked with colour and have been counted as
having been cast for one of the candidates at this election and that were marked
with colour and have been counted as cast for one of the candidates at this election (*and so on*
*until all the unspoiled and unobjected ballots cast have been counted for the candidates for whom they were cast.*)

(*Signature*) *C. D., Deputy Returning Officer.*

Dated at this day of 1 .

Summary of Count of ballots

Objected ballots..................

Spoiled ballots..................

Counted for (*each candidate*)..................

Total ballots counted..................

## FORM K.

*(Secs. 41, 42, 50, 52.)*

### No. 1.

*Statement of Voter.*

I, , do hereby state that I am a male British subject by birth or naturalisation; that I am not an unenfranchised Indian; that I am of the full age of twenty-one years; that I have resided in the North-West Territories for at least the twelve months and in this Electoral District for at least the three months immediately preceding the present time; that I am a resident of this polling division and that I have not voted at this election either at this or any other polling place.

### No. 2.

*Statement of Voter.*

I, , do hereby state that I have not received anything nor has anything been promised me, nor have I asked for anything directly or indirectly, either to induce me to vote at this election, or for loss of time, travelling expenses, hire of team or for any other service connected therewith, and that in the casting of my vote at this election I am not impelled or influenced by fear or by expectation of favour.

### No. 3.

*Statement of Deputy Returning Officer, Poll Clerk, Candidate, Agent, etc.*

I, *A.B.*, hereby state that I am a male British subject by birth or naturalisation; that I am not an unenfranchised Indian; that I am of the full age of twenty-one years; that I have resided in the North-West Territories for at least the twelve months and in this Electoral District for at least the three months immediately preceding the present time; that I am now residing in polling division number of this Electoral District; that I have not voted at this election either at this or at any other polling place; and that I am a candidate at this election (*or* that I am acting as Deputy Returning Officer *or* Poll Clerk *or* Agent *or* Scrutineer for *as the case may be,* at this polling station).

## FORM L.

*Interpreter's Oath.* (*Sec. 47.*)

I,                    do solemnly swear (or *if he is one of the persons permitted by law to affirm in civil cases,* do solemnly affirm) that I will well, truly and faithfully interpret all such instructions and informtaion necessary to enable any voter to cast his vote at this election as I may be directed by the Deputy Returning Officer to communicate to such voter, and that I will not say or communicate anything to any such voter to induce him to vote for, or to refrain from voting for any particular candidate. So help me God.

*A.B.*

Sworn before me, etc.
(*Signature of Deputy Returning Officer.*)

## FORM M.

*Notice to Appear.* (*Sec. 49.*)

*To*

Take notice that you are hereby required to appear at (*here describe with reasonable certainty the building or place fixed for sittings of the Court of Revision*) on                    the                    day of                    1    , at the hour of                    o'clock                    noon, before me and such Justice of the Peace as shall then be sitting with me, to answer to a charge of having voted contrary to the provisions of *The Territories Elections Ordinance.*

Dated this                    day of                    1    .

*A.B.,*
*Deputy Returning Officer.*

## FORM N.

*Summons to a Witness.* (*Sec. 61.*)

*To A.B.,*

You are hereby commanded to appear before us at (*here describe with reasonable certainty the building or place fixed for sittings of the Court of Revision*) in polling division number                    of the Electoral District of                    on the day of 1 , at the hour of o'clock noon, and so on from day to day until the charge hereinafter mentioned is tried or otherwise disposed of, to testify and give evidence upon the hearing before us of a charge preferred against one *C.D.*, of having voted contrary to the provisions of *The Territories Elections Ordinance.*

And you are hereby further commanded to bring with you and produce at the time and place aforesaid all papers and articles in your possession or power in any way relating to said charge or to any matter connected therewith.

Witness our hand (*or* my hand) this day of 1 .

.........................
*Deputy Returning Officer.*

.........................
*Justice of the Peace.*

(*This Summons may be issued by the Deputy Returning Officer or by the Justice of the Peace or by both.*)

## SCHEDULE 3.

## TARIFF A.

### *Witness Fees.*

(*Sections 61, 70.*)

For every day necessarily absent from residence in going to, staying at and returning from hearing:

| | |
|---|---|
| When residence is within 4 miles of place | $ 1 00 |
| When over 4 miles | 2 00 |
| For every mile necessarily travelled other than by railway | 10 |
| When railway used: actual fare paid. | |

## TARIFF B.

### *Schedule of Costs to be allowed upon Inquiry before Judge of Supreme Court.* (*Secs. 92, 94.*)

| | |
|---|---|
| To the clerk of the court for receiving, filing and entering each appeal and attending judge with notification and on hearing of appeal and judgment | $ 2 00 |

| | |
|---|---|
| To the clerk for issuing each summons, subpœna or notice | 50 |
| To the clerk, all necessary postage. | |
| To the clerk, taxing each bill of costs actually taxed. | 50 |
| To witnesses, the same fees as are allowed in civil cases. | |
| To the advocate for the party succeeding on each appeal | 2 00 |

To be increased in the discretion of the judge to an amount not exceeding $15.00.

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## TARIFF C.

*Fees for election services.*

(*Sec. 120.*)

| | |
|---|---|
| Returning officer, where no poll is held | $20 00 |
| Election clerk, where no poll is held | 5 00 |
| Returning officer, where poll is held | 75 00 |
| Election clerk, where poll is held | 20 00 |
| Deputy returning officer | 5 00 |
| Poll clerk | 3 00 |
| Interpreter | 2 00 |
| (If employed in less than eight cases, twenty-five cents for each case.) | |
| Deputy returning officer and justice of the peace sitting as Court of Revision, each | 5 00 |
| Each officer for every mile necessarily travelled in the discharge of his duties | 15 |
| Rent of house for nomination | 4 00 |
| Rent of house for polling station | 4 00 |
| Rent of house for Court of Revision | 4 00 |
| Rent of house for count by returning officer | 4 00 |

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# ELECTIONS CONTESTED.

*See* CONTROVERTED ELECTIONS.

# ELECTRIC COMPANIES.

*See* WATER, GAS, ELECTRIC AND
TELEPHONE COMPANIES.

# ENGINEERS.

*See* IRRIGATION DISTRICTS.
PUBLIC WORKS.
STEAM BOILERS INSPECTION.

# ENTIRE ANIMALS.

## An Ordinance respecting Stallions and Bulls.

**C. O. 1898 c. 78**
**15 March 1899**

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The Entire Animals Ordinance."* C. O. 78, s. 1.

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

**Department**

1. The expression "department" means the department of agriculture;

**"Minister"**

2. The expression "minister" means the member of the Executive Council of the Territories to whom may be assigned from time to time the duty of administering the department of agriculture;

**"Justice"**

3. The expression "justice" means any justice of the peace;

**"Owner"**

4. The expression "owner" means any person owning any stallion or bull dealt with under this Ordinance;

**"Captor"**

5. The expression "captor" means any person seizing or confining any stallion or bull under this Ordinance;

**"Running at large"**

6. The expression "run at large" or "running at large" means without being under control of the owner either by being in direct and continuous charge of a herder or by confinement within any building or other inclosure or fence whether the same be lawful or not. C. O. 78, s. 2.

**When stallions shall not run at large**

**3.** No stallion of one year old or upwards shall be permitted to run at large in any part of the Territories at any time. C. O. 78, s. 3.

**When bulls shall not run at large**

**4.** Except as hereinafter provided no bull nine months old or upwards shall be permitted to run at large in any part of the Territories at any time.

**Bulls may run at large in certain cases**

(2) The minister may by notice published in two consecutive issues of the official gazette declare that bulls may be permitted to run at large in any district described in such notice between the first day of July *and the thirty-first day of December in any year* both days inclusive. C. O. 78, s. 4 and 1900, c. 28, s. 1.

Stallions or bulls unlawfully running at large may be captured

5. Except within the limits of any pound district or herd district constituted under the provisions of any Ordinance of the Territories any person who finds a stallion or bull running at large contrary to the provisions of this Ordinance may capture and confine such bull or stallion and promptly thereafter shall notify the owner thereof if known to such captor; and if such owner do not within three days after receiving such notice take away such stallion or bull and pay the captor thereof $5 for his trouble and 25 cents per diem for the keep of the said stallion or bull for every day it has been in his custody such owner shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $20 together with the cost of prosecution and the fees for capturing and the keep of such stallion or bull as aforesaid which said fees shall be paid over on collection to the captor. C. O. 78, s. 5.

When owner is unknown

6. When the owner of any stallion or bull captured and confined under the provisions of the last preceding section is unknown to the captor, the said captor shall within forty-eight hours after such capture post up a notice of detention in form A in the schedule hereto in three public places in the neighbourhood of the place of capture and at the same time forward a copy of the notice to the department for publication in two consecutive issues of the official gazette, and the owner of such stallion or bull shall be entitled to receive delivery thereof upon paying the captor $5 for his trouble and 25 cents per diem for the keep of such animal together with the amount of the expenses actually incurred for advertising.

Advertising capture

(2) In addition to advertising the capture of a stallion or bull in the official gazette as herein provided the captor may also cause a copy of the notice of detention to be inserted in three successive weekly issues of the newspaper published nearest to the neighbourhood in which the capture was made, and any expenditure not exceeding the sum of $1 made for such advertising shall be reimbursed to the captor by the owner if the said stallion or bull is released by such owner or, if not so released, by the justice after the sale of such stallion or bull upon proof of such expenditure having been made. C. O. 78, s. 6,

When animal may be sold

7. If at the end of twenty days from the first publication of the notice in the said gazette no owner be found for such stallion or bull or the payments herein provided have not been made to the captor, then upon application to a justice in form B in the schedule hereto verified under oath before the said justice, the said justice may after eight days' notice posted up in three conspicuous places in the neighbourhood of the place

of capture (one of which shall be the post office nearest thereto) stating the time and place of sale, sell or cause the said stallion or bull to be sold by public auction, and out of the proceeds of such sale shall first pay the expenses of sale and advertising and justice's fees and then the sum of $5 and costs of keeping to the captor and the balance to the minister.

Disposition of proceeds

(2) The justice of the peace shall immediately after the sale send to the department a description of the animal or animals sold, the date of sale, the amount realised and the disposition thereof. C. O. 78, s. 7.

**8.** Any money paid to the minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence of ownership (satisfactory to the minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C. O. 78, s. 8.

Proceeds remitted to treasurer may be paid to owner

**9.** The justice to whom application is made for authority to sell any stallion or bull which may be sold under the provisions of this Ordinance may either sell the animal himself or order it to be sold by the nearest accessible pound keeper to the place where the animal was found or in the absence of any such pound keeper living within reasonable distance thereto may authorise any person in writing to sell such animal; and no liability shall be incurred by any person making such sale by reason of his not being in possession of a licence to act as auctioneer under the provisions of any Ordinance of the Territories. C. O. 78, s. 9.

Who may sell animal

**10.** The justice or person authorised thereto selling any stallion or bull under the provisions of this Ordinance shall be entitled to retain to his own use and benefit $2.50 per centum commission upon the proceeds of such sale. C. O. 78, s. 10.

Salesman's fees

**11.** In any pound district or herd district established under the provisions of any Ordinance of the Territories no stallion or bull shall be detained or sold in the manner provided in this Ordinance but (if captured) shall be taken by the captor to the nearest accessible pound there to be dealt with as it is provided estrays may be dealt with. C. O. 78, s. 11.

Stallions or bulls at large in pound or herd districts

**12.** The owner of any stallion or bull who after receiving a notice signed by a justice of the peace that such stallion or bull is running at large contrary to the provisions of this Ordinance and requiring such owner to capture and confine the same neglects or refuses within forty-eight hours to comply

Penalty for owner allowing stallion or bull to run at large with such notice shall be guilty of an offence and liable on summary conviction thereof before a justice of the peace to a penalty of $5 for every day after the expiration of the time mentioned in said notice the stallion or bull is at large. C. O. 78, s. 12.

Fees allowed to justice

**13.** Without in any way prejudicing the right which a justice may have to fees established by law in respect of any proceedings in summary convictions under this Ordinance or under section 9 of this Ordinance a justice shall be entitled to the following fees for services performed by him under section 7 hereof:

Preparing the application therein mentioned and administering oath, fifty cents.

Preparing and posting the notices therein mentioned, $1.
C. O. 78, s. 13.

## SCHEDULE.

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### FORM A.

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The undersigned gives notice that he has captured a (stallion *or* bull *as the case may be with a full description of same*) while running at large contrary to the provisions of *The Entire Animals Ordinance.* The said (stallion *or* bull) is detained on the (*description of quarter-section or other place where the animal is confined*) and if not claimed in due course will be dealt with according to law.

The capture was made at o'clock on day the day of 1 , and this notice was posted within hours thereafter.

(*Signature and post office address of captor.*)
C. O. 78, Form A.

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### FORM B.

To *A.B.* Esquire a justice of the peace in and for the North-West Territories.

The applicant avers that on the day of 1 , (*naming the date of capture*) he found a (bull *or* stallion *as the case may be*) running at large contrary to the provisions of *The Entire Animals Ordinance* and captured and confined the same;

That he posted up a notice in three public places in the neighbourhood of the capture and advertised such notice in three successive weekly issues of (*naming the newspaper if any*) and forwarded a copy of the notice to the department of agriculture at Regina for publication in *The North-West Territories Gazette;*

That the notice was published in the issue of the said gazette dated (*date of first issue of gazette containing notice*);

That twenty days have elapsed without the said (stallion *or* bull) having been released by the payment to the applicant of the moneys he is entitled to be paid under the provisions of the said Ordinance;

That the applicant prays that the said (bull *or stallion*) may be sold.

(*Signature of captor.*)

I (*name of captor*) the applicant above named make oath and say that the facts set forth in the above application are true in substance and fact.

(*Signature of captor.*)

Sworn before me
at
this day of
1

*A.B.*, J.P.

C. O. 78, Form B.

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## ESTATES.

*See* ADMINISTRATION.
DEVOLUTION.
TRUSTEES, EXECUTORS AND ADMINISTRATORS.

## ESTRAY ANIMALS.

*See* STRAY ANIMALS.

## EXECUTIONS.

*See* CREDITORS' RELIEF.
EXEMPTIONS.
JUDICATURE.

## EXECUTORS.

*See* TRUSTEES, EXECUTORS AND ADMINISTRATION.

## EXECUTIVE COUNCIL.

*See* DEPARTMENTS OF GOVERNMENT.
PUBLIC SERVICE.

## EXECUTIVE GOVERNMENT.

*See* DEPARTMENTS OF GOVERNMENT.
PUBLIC SERVICE.
SECURITY OF PUBLIC OFFICERS.

# EXEMPTIONS FROM EXECUTION.

C.O. 1898, c. 27 15 March, 1899

## An Ordinance exempting certain Property from Seizure and Sale under Execution.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Exemptions Ordinance."* C. O. 27, s. 1.

### EXEMPTIONS.

Exemptions from seizure

**2.** The following real and personal property of an execution debtor and his family is hereby declared free from seizure by virtue of all writs of execution, namely:

1. The necessary and ordinary clothing of himself and his family;

2. Furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars;

3. The necessary food for the family of the execution debtor during six months which may include grain and flour or vegetables and meat either prepared for use or on foot;

4. Three oxen, horses or mules or any three of them, six cows, six sheep, three pigs and fifty domestic fowls besides the animals the execution debtor may have chosen to keep for food purposes and food for the same for the months of November, December, January, February, March and April, or for such of these months or portions thereof as may follow the date of seizure provided such seizure be made between the first day of August and the thirtieth day of April next ensuing;

5. The harness necessary for three animals, one waggon or two carts, one mower or cradle and scythe, one breaking plough, one cross plough, one set of harrows, one horse rake, one sewing machine, one reaper or binder, one set of sleighs and one seed drill;

6. The books of a professional man;

7. The tools and necessary implements to the extent of two hundred dollars used by the execution debtor in the practice of his trade or profession;

8. Seed grain sufficient to seed all his land under cultivation not exceeding eighty acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes;

9. The homestead, provided the same be not more than one hundred and sixty acres; in case it be more the surplus may be sold subject to any lien or incumbrance thereon;

10. The house and buildings occupied by the execution debtor and also the lot or lots on which the same are situate according to the registered plan of the same to the extent of fifteen hundred dollars. C. O. 27, s. 2.

**Debtor's choice**

**3.** The execution debtor shall be entitled to a choice from the greater quantity of the same kind of articles which are hereby exempted from seizure. C. O. 27, s. 3.

**Article forming consideration of judgement**

**4.** Nothing in this Ordinance shall exempt from seizure any article except for the food, clothing and bedding of the execution debtor and his family, the price of which forms the subject matter of the judgment upon which the execution is issued. C. O. 27, s. 4.

**Rights of family of deceased debtor**

**5.** In case of the death of the execution debtor, his property exempt from seizure under execution shall be exempt from seizure under execution against his personal representative if the said property is in the use and enjoyment of the widow and children or widow or children of the deceased and is necessary for the maintenance and support of said widow and children or any of them. C. O .27, s. 5.

**Absconding debtors**

**No exemption in case of alimony**

**6.** The provisions of section 2 hereof shall not apply to any case where the debtor has absconded or is about to abscond from the Territories leaving a wife or famliy behind; *nor to an execution issued upon a judgment or order for the payment of alimony.* C. O. 27, s. 6 and 1901, c. 16, s. 1.

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## EXPROPRIATION OF LAND.

*See* MUNICIPAL.
PUBLIC WORKS.

## EXTRA JUDICIAL SEIZURE.

*See* DISTRESS FOR RENT.

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## FACTORS AND AGENTS.

### An Ordinance respecting Factors and Agents

C.O. 1898, c. 40
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Factors' Ordinance."* C. O. 40, s. 1.

### INTERPRETATION.

Interpretation

**2.** For the purposes of this Ordinance:

"Mercantile agent"

1. The expression "mercantile agent" shall mean a mercantile agent having, in the customary course of his business as such agent, authority either to sell goods or to consign goods for the purpose of sale or to buy goods or to raise money on the security of goods;

2. A person shall be deemed to be in possession of goods or of the documents of title to goods where the goods or documents are in his actual custody or are held by any other person subject to his control or for him or in his behalf;

"Goods"

3. The expression "goods" shall include wares and merchandise;

"Document of title"

4. The expression "document of title" shall include any bill of lading, dock warrant, warehousekeeper's certificate or warrant or order for the delivery of goods and any other document used in the ordinary course of business as proof of the possession or control of goods or authorising or purporting to authorise either by indorsement or delivery the possessor of the document to transfer or receive goods thereby represented;

"Pledge"

5. The expression "pledge" shall include any contract pledging or giving a lien or security on goods whether in consideration of an original advance or of any further or continuing advance or of any pecuniary liability;

"Person"

6. The expression "person" shall include any body of persons corporate or unincorporate. C. O. 40, s. 2.

### DISPOSITIONS BY MERCANTILE AGENTS.

Powers of mercantile agents respecting disposition of goods

**3.** Where a mercantile agent is, with the consent of the owner, in possession of goods or of the documents of title to goods any sale, pledge or other disposition of the goods made by him when acting in the ordinary course of business of a mercantile agent shall subject to the provisions of this Ordinance be as valid as if he were expressly authorised by the owner of the goods to make the same:

Provided that the person taking under the disposition acts in good faith and has not at the time of the disposition notice that the person making the disposition has not authority to make the same.

(2) Where a mercantile agent has, with the consent of the owner, been in possession of goods or of the documents of title to goods any sale, pledge or other disposition which would have been valid if the consent had continued, shall be valid notwithstanding the determination of the consent:

Provided that the person taking under the disposition has not at any time thereof notice that the consent has been determined.

(3) Where a mercantile agent has obtained possession of any documents of title to goods by reason of his being or having been with the consent of the owner in possession of the goods represented thereby or of any other documents of title to the goods his possession of the first-mentioned documents shall for the purposes of this Ordinance be deemed to be with the consent of the owner.

(4) For the purposes of this Ordinance the consent of the owner shall be presumed in the absence of evidence to the contrary. C. O. 40, s. 3.

**Effect of pledge of documents of title**

**4.** A pledge of the documents of title to goods shall be deemed to be a pledge of the goods. C. O. 40, s. 4.

**Pledge for antecedent debt**

**5.** Where a mercantile agent pledges goods as security for a debt or liability due from the pledgor to the pledgee before the time of the pledge, the pledgee shall acquire no further right to the goods than could have been enforced by the pledgor at the time of the pledge. C. O. 40, s. 5.

**Rights acquired by exchange of goods or documents**

**6.** The consideration necessary for the validity of a sale, pledge or other disposition of goods in pursuance of this Ordinance may be either a payment in cash or the delivery or transfer of other goods or of a document of title to goods or of a negotiable security or any other valuable consideration; but where goods are pledged by a mercantile agent in consideration of the delivery or transfer of other goods or of a document of title to goods or of a negotiable security the pledgee shall acquire no right or interest in the goods so pledged in excess of the value of the goods, documents or security when so delivered or transferred in exchange. C. O. 40, s. 6.

**Agreements through clerks, etc.**

**7.** For the purposes of this Ordinance an agreement made with a mercantile agent through a clerk or other person authorised in the ordinary course of business to make contracts of sale or pledge on his behalf shall be deemed to be an agreement with the agent. C. O. 40, s. 7.

**Provisions as to consignors and consignees**

**8.** Where the owner of goods has given possession of the goods to another person for the purpose of consignment or sale or has shipped the goods in the name of another person and the consignee of the goods has not had notice that such person is not the owner of the goods the consignee shall in respect of advances made to or for the use of such person have the same lien on the goods as if such person were the owner of the goods and may transfer any such lien to another person.

(2) Nothing in this section shall limit or affect the validity of any sale, pledge or disopsition by a mercantile agent. C. O. 40, s. 8.

### DISPOSITIONS BY BUYERS AND SELLERS OF GOODS.

**Disposition by seller remaining in possession**

**9.** Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale shall have the same effect as if the person making the delivery or transfer were expressly authorised by the owner of the goods to make the same. C. O. 40, s. 9.

**Disposition by buyer obtaining possession**

**10.** Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof or under any agreement for sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner. C. O. 40, s. 10.

**Effect of transfer of documents on vendor's lien or right of stoppage *in transitu***

**11.** Where a document of title to goods has been lawfully transferred to a person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration the last mentioned transfer shall have the same effect for defeating any vendor's lien or right of stoppage *in transitu* as the transfer of a bill of lading has for defeating the right of stoppage *in transitu*. C. O. 40, s. 11.

### SUPPLEMENTAL.

Mode of transferring documents

**12.** For the purposes of this Ordinance the transfer of a document may be by indorsement or where the document is by custom or by its express terms transferable by delivery or makes the goods deliverable to the bearer then by delivery. C. O. 40, s. 12.

Liability of agent

**13.** Nothing in this Ordinance shall authorise an agent to exceed or depart from his authority as between himself and his principal or exempt him from any liability civil or criminal for so doing.

Saving for rights of true owner

(2) Nothing in this Ordinance shall prevent the owner of goods from recovering the goods from an agent or assignee under an assignment for the benefit of creditors at any time before the sale or pledge thereof or shall prevent the owner of goods pledged by an agent from having the right to redeem the goods at any time before the sale thereof on satisfying the claim for which the goods were pledged and paying to the agent, if by him required, any money in respect of which the agent would by law be entitled to retain the goods or the documents of title thereto or any of them by way of lien as against the owner or from recovering from any person with whom the goods have been pledged any balance of money remaining in his hands as the produce of the sale of the goods after deducting the amount of his lien.

(3) Nothing in this Ordinance shall prevent the owner of goods sold by an agent from recovering from the buyer the price agreed to be paid for the same or any part of that price subject to any right of set-off on the part of the buyer against the agent. C. O. 40, s. 13.

Saving for common law powers of agent

**14.** The provisions of this Ordinance shall be construed in amplification and not in derogation of the powers exercisable by an agent independently of this Ordinance. C. O. 40, s. 14.

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# FENCES.

## An Ordinance respecting Fences.

1903, Sess. 2, c. 28

*[Assented to November 21, 1903.]* 21 Nov. 1903

**THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:**

## SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Fence Ordinance."* 1903, Sess. 2, c. 28, s. 1.

## PROVISIONS REGARDING FENCES.

Absence of lawful fence

**2.** No action for damages caused by domestic animals shall be maintained nor shall domestic animals be liable to be distrained for causing damage to property unless the same is surrounded by a lawful fence. 1903, Sess. 2, c. 28, s. 2.

Lawful fence defined

**3.** Any of the fences in this section described shall be deemed a lawful fence:

1. Any substantial fence not less than four feet high if it consists:

(*a*) Of rails or boards not less than four in number, the lower one not more than eighteen inches from the ground and each panel not exceeding twelve feet in length;

(*b*) Of upright posts, boards or palings not more than six inches apart;

(*c*) Of barbed wire and a substantial top rail, the wires to be not less than two in number and the lower one not more than twenty inches from the ground, posts to be not more than sixteen and a half feet apart;

(*d*) Of three or more barbed wires, the lower one not more than twenty inches from the ground, posts to be not more than sixteen and a half feet apart;

(*e*) Of not less than three barbed wires on posts not more than fifty feet apart, the wires being fastened to droppers not less than two inches in width and one inch in thickness or willow or other poles not less than one inch in diameter at the small end or wire dropper, the said droppers or poles being placed at regular intervals of not more than seven feet apart;

(*f*) Of two posts spiked together at the top and resting on the ground in the shape of an A which shall be joined by a brace firmly nailed near the base, with three rails firmly secured on the one side of the A, the top rail not less than four feet and the bottom rail not less than eighteen inches from the ground, there being also firmly secured on the other side of the A one rail not more than twenty inches from the ground;

(*g*) Of woven wire secured to posts not more than 35 feet apart;

2. Any river bank or other natural boundary sufficient to keep domestic animals out of any land. 1903, Sess. 2, c. 28, s. 3.

**4.** No fence surrounding growing crops or crops in process of being harvested shall be deemed a lawful fence unless it is situated at least eight feet from such crop and otherwise complies with the provisions of this Ordinance. 1903, Sess. 2, c. 28, s. 4.

**Fences around crops**

**5.** Any fence surrounding stacks of hay or grain shall be deemed a lawful fence if constructed according to the provisions of section 3 of this Ordinance and situated not less than ten feet from such stacks. 1903, Sess. 2, c. 28, s. 5.

**Fences surrounding stacks**

**6.** Whenever two owners or occupiers of adjoining parcels of lands desire to erect a line or boundary fence between such adjoining parcels for the common advantage of both they shall bear the expense of the erection in equal shares and thereafter the expense of maintaining and repairing such fence shall be borne by the adjoning owners or occupiers in equal shares.

**Liability of adjoining owners for line fences**

(2) Whenever the owner or occupier of any parcel of land erects a line or boundary fence between such land and an adjoining parcel of land the owner or occupier of such adjoining parcel of land as soon as he receives any benefit or advantage from such line or boundary fence by the enclosure of his land or any portion thereof or otherwise howsoever shall pay to the first mentioned owner or occupier a just proportion of the then value of such line or boundary fence and thereafter the expense of maintaining and repairing such fence shall be borne by the adjoining owners or occupiers in equal shares. 1903, Sess. 2, c. 28, s. 6.

**7.** The owner of any domestic animal which breaks into or enters upon any land inclosed by a lawful fence shall be liable to compensate the owner of such land for any damage done by such animal. 1903, Sess. 2, c. 28, s. 7.

**Trespassing of animals**

**Liability of owner**

**8.** In case adjoining owners or occupiers of land disagree as to what is a lawful fence or as to the proper location of a proposed or existing line or boundary fence or as to the just proportion of a line fence which each such owner or occupier should make or put in repair or as to the amount which any

**Disagreement as to fencing or damages**

such owner or occupier should make compensation to the other for making or keeping in repair any fence or in case parties interested disagree as to the amount of damages done by animals breaking into or entering upon any land inclosed by a lawful fence they shall each appoint an arbitrator to determine and settle the matter in difference and such arbitrators shall first giving the parties in difference reasonable notice of the time and place where they intend to meet for the purpose of hearing and determining the matter in difference attend at such time and place and hear such parties and their witnesses and make their award in respect to the matters so in difference; and in case such arbitrators are unable to agree they shall appoint an umpire who shall make an award in respect to the said matters; and in case either of the parties in difference refuses or omits to appoint an arbitrator within forty-eight hours after a demand is made in writing upon him to do so by the other party in difference such other party in difference may apply to a justice of the peace who being satisfied by the oath of a credible witness that such demand has been made and not complied with may appoint an arbitrator in the stead of the person so refusing or omitting to appoint and the arbitrator so appointed shall proceed and act and all steps shall be had and taken as in this section provided as if such arbitrator had been appointed by the person so refusing or omitting to appoint.

Arbitration

(2) The direction herein contained for the appointment of arbitrators shall be deemed a submission under *The Arbitration Ordinance* and the provisions of the last mentioned Ordinance shall apply thereto.

(3) The decision of the arbitrators as to the proper location of a proposed or existing line or boundary fence shall not affect the title to the land on either side thereof and shall be binding only during the actual existence as a lawful fence of the fence in question. 1903, Sess. 2, c. 28, s. 8.

Exceptions as to herd and pound district

**9.** Nothing in the preceding section shall be held to affect in any way the right of any person to seize or impound cattle in any herd or pound district under the provisions of any Ordinance authorising the seizing or impounding of cattle in any such district or to affect the demand or recovering of damages in the mode prescribed by that Ordinance. 1903, Sess. 2, c. 28, s. 9.

Fences across closed trails

**10.** It shall be the duty of any person erecting any wire fence across any trail that has been in common use by the public for a period of three months immediately previous to such erection to place a top rail on such fence where it crosses the trail and for a distance of two rods on each side from the centre of the trail. 1903, Sess. 2, c. 28, s. 10.

**11.** Chapter 77 of The Consolidated Ordinances 1898, Chapter 21 of the Ordinances of 1899 and Chapter 27 of the Ordinances of 1900 are hereby repealed. 1903, Sess. 2, c. 28, s. 11. **Repeal**

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## FERRIES.

*See* PUBLIC WORKS.

## FIRES.

*See* CONSTRUCTION OF CHIMNEYS.
INVESTIGATION OF FIRES.
PRAIRIE AND FOREST FIRES.

## FIRE INSURANCE.

*See* FIRE INSURANCE POLICY.
MUTUAL FIRE INSURANCE.

## FIRES INVESTIGATION.

*See* INVESTIGATION OF FIRES.

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# FIRE INSURANCE POLICY.

## An Ordinance to Secure Uniform Conditions in Policies of Fire Insurance.

1903, Sess. 1, c. 16

[*Assented to June 19, 1903.*] 19 June, 1903

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Fire Insurance Policy Ordinance."* 1903, Sess. 1, c. 16, s. 1. **Short title**

**2.** Where, by reason of necessity, accident or mistake, the conditions of any contract of fire insurance on property in the Territories, as to the proof to be given to the insurance company after the occurrence of a fire, have not been strictly complied with, or where, after a statement or proof of loss has **Company to be liable notwithstanding trifling defects in proof**

been given in good faith, by or on behalf of the assured in pursuance of any proviso or condition of such contract, the company, through its agent or otherwise, objects to the loss upon other grounds than for imperfect compliance with such conditions, or does not, within a reasonable time after receiving such statement or proof, notify the assured in writing that such statement or proof is objected to, and what are the particulars in which the same is alleged to be defective and so from time to time, or where for any other reason the court or judge before whom a question relating to such insurance is tried or inquired into, considers it inequitable that the insurance should be deemed void or forfeited by reason of imperfect compliance with such conditions, no objection to the sufficiency of such statement or proof, or amended or supplemental statement or proof, as the case may be, shall, in any of such cases, be allowed as a discharge of the liability of the company on such contract of insurance wherever entered into; but this section shall not apply where the fire has taken place before the coming into force of this Ordinance. 1903, Sess. 1, c. 16, s. 2.

Where loss payable to mortgagee, notice of cancellation, etc., to be given mortgagee

**3.** Where the loss, if any, under any policy has, with the consent of the company, been made payable to some person or persons or company other than the assured as mortgagee or mortgagees, said policy shall not be cancelled, * * * by the company upon the application of the assured, nor in any case without reasonable notice to the said mortgagee or mortgagees. 1903, Sess. 1, c. 16, s. 3 and 1903, Sess. 2, c. 20, s. 1.

Statutory conditions

**4.** The conditions set forth in the schedule of this Ordinance shall, as against the insurers, be deemed to be part of every contract, whether sealed, written or oral, of fire insurance hereafter entered into or renewed or otherwise in force in the North-West Territories with respect to any property therein or in transit therefrom or thereto, and shall be printed on every policy of fire insurance, with the heading "Statutory Conditions." 1903, Sess. 1, c. 16, s. 4.

Variations in conditions

**5.** If a company or other insurer desires to vary the said conditions or to omit any of them, or to add new conditions, there shall be added on the policy in conspicuous type and in ink of different colour, words to the following effect:

"VARIATIONS IN CONDITIONS.

"This policy is issued on the above statutory conditions, with the following variations and additions:

"These variations (*or* as the case may be) are, by virtue of *The Fire Insurance Policy Ordinance* in that behalf, in force so far as, by the court or judge before whom a question is tried relating thereto, they shall be held to be just and reasonable to be exacted by the company." 1903, Sess. 1, c. 16, s. 5.

**6.** No such variation, addition or omission shall, unless the same is distinctly indicated and set forth in the manner or to the effect aforesaid, be legal and binding on the assured; and no question shall be considered as to whether any such variation, addition or omission is under the circumstances just and reasonable, but, on the contrary, the policy shall, as against the insurers, be subject to the statutory conditions only unless the variations, additions or omissions are distinctly indicated and set forth in the manner or to the effect aforesaid. 1903, Sess. 1, c. 16, s. 6. **Legality of variations in conditions**

**7.** In case a policy is entered into or renewed containing or including any condition other than or different from the conditions set forth in the schedule to this Ordinance, if the said condition so contained or included is held by the court or judge before whom a question relating thereto is tried, to be not just and reasonable, such condition shall be null and void. 1903, Sess. 1, c. 16, s. 7. **Conditions held by Court to be unjust and unreasonable to be null and void**

**8.** A decision of a court or a judge under this Ordinance shall be subject to review or appeal to the same extent as a decision by such court or judge in other cases. 1903, Sess. 1, c. 16, s. 8. **Appeal**

**9.** This Ordinance shall come into force on the first day of January, 1904. 1903, Sess. 1, c. 16, s. 9. **Commencement**

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## SCHEDULE.

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(*Sections 4 and 7.*)

### STATUTORY CONDITIONS.

1. If any person or persons insures his or their buildings or goods and causes the same to be described otherwise than as they really are to the prejudice of the company, or misrepresents or omits to communicate any circumstance which is material to be made known to the company in order to enable

it to judge of the risk it undertakes, such insurance shall be of no force in respect to the property in regard to which the misrepresentation or omission is made.

2. After application for insurance it shall be deemed that any policy sent to the assured is intended to be in accordance with the terms of the application unless the company points out in writing the particulars wherein the policy differs from the application.

3. Any change material to the risk, and within the control or knowledge of the assured, shall avoid the policy as to the part affected thereby, unless the change is promptly notified in writing to the company or its local agent; and the company when so notified may return the premium for the unexpired period and cancel the policy, or may demand in writing an additional premium which the assured shall if he desires the continuance of the policy forthwith pay to the company; and if he neglects to make such payment forthwith after receiving such demand the policy shall be no longer in force.

4. If the property insured is assigned without a written permission indorsed hereon by an agent of the company duly authorised for such purpose, the policy shall thereby become void; but this condition does not apply to change of title by succession, or by the operation of the law, or by reason of death.

5. When property insured is only partially damaged, no abandonment of the same will be allowed unless by the consent of the company or its agent; and in case of the removal of property to escape conflagration the company will contribute to the loss and expenses attending such act of salvage proportionately to the respective interests of the company or companies and the assured.

6. Money, books of account, securities for money, and evidences of debt or title are not insured.

7. Plate, plate glass, plated wire, jewelry, medals, paintings, sculptures, curiosities, scientific and musical instruments, bullion, works of art, articles of virtu, frescoes, clocks, watches, trinkets, and mirrors are not insured unless mentioned in the policy.

8. The company is not liable for loss if there is any prior insurance in any other company unless the company's assent thereto appears herein or is indorsed hereon, nor if any subsequent insurance is effected in any other company unless and until the company assents thereto, or unless the company does not dissent in writing within two weeks after * * *

notice of the intention or desire to effect the subsequent insurance *has been mailed to it, addressed to it at its principal office in the North-West Territories or at the post office of the agency where the application for insurance was made by registered letter;* or does not dissent in writing after that time and before the subsequent or further insurance is effected.

9. In the event of any other insurance on the property herein described having been assented to as aforesaid then this company shall, if such other insurance remains in force, on the happening of any loss or damage, only be liable for the payment of a ratable proportion of such loss or damage without reference to the dates of the different policies.

10. The company is not liable for the losses following, that is to say:

(*a*) For loss of property owned by any other party than the assured, unless the interest of the assured is stated in or upon the policy;

(*b*) For loss caused by invasion, insurrection, riot, civil commotion, military or usurped power;

(*c*) Where the insurance is upon buildings or their contents for loss caused by the want of good and substantial brick or stone chimneys, or by ashes or embers being deposited, with the knowledge and consent of the assured, in wooden vessels, or by stoves or stove pipes being to the knowledge of the assured in an unsafe condition or improperly secured;

(*d*) For loss or damage to goods destroyed or damaged while undergoing any process in or by which the application of fire heat is necessary;

(*e*) For loss or damage occurring to buildings or their contents while the buildings are being repaired by carpenters, joiners, plasterers, or other workmen and in consequence thereof unless permission to execute such repairs had been previously granted in writing signed by a duly authorised agent of the company; but in dwelling houses, fifteen days are allowed in each year for incidental repairs, without such permission;

(*f*) For loss or damage occurring while petroleum, rock, earth or coal oil, camphene, gasoline, burning fluid, benzine, naptha or any liquid products thereof, or any of their constituent parts (refined coal oil for lighting purposes only, not exceeding twenty gallons in quantity, or lubricating oil not being crude petroleum nor oil of less specific gravity than required by law, for illuminating purposes, not exceeding twenty gallons in quantity, excepted), or more than twenty-five pounds weight of gunpowder is or are stored or kept in the building insured or containing the property insured, unless permission is given in writing by the company.

11. The company will make good loss caused by the explosion of coal gas in a building not forming part of gas works, and loss by fire caused by any other explosion or by lightning.

12. Proof of loss must be made by the assured although the loss be payable to a third party.

13. Any person entitled to make a claim under this policy is to observe the following directions:

(*a*) He is forthwith after loss to give notice in writing to the company;

(*b*) He is to deliver, as soon afterwards as practicable, as particular an account of the loss as the nature of the case permits;

(*c*) He is also to furnish therewith a statutory declaration, declaring:

(1) That the said account is just and true;

(2) When and how the fire originated, as far as the declarant knows or believes;

(3) That the fire was not caused through his wilful act or neglect, procurement, means or contrivance;

(4) The amount of other insurances;

(5) All liens and incumbrances on the subject of insurance;

(6) The place where the property insured, if movable, was deposited at the time of the fire;

(*d*) He is, in support of his claims, if required and if practicable, to produce books of account, * * * and furnish invoices and other vouchers, to furnish copies of the written portion of all policies, * * * and to exhibit for examination all that remains of the property which was covered by the policy;

(*e*) He is to produce, if required, a certificate under the hand of a justice of the peace, notary public or commissioner for taking affidavits, residing in the vicinity in which the fire happened, and not concerned in the loss or related to the assured or sufferers, stating that he has examined the circumstances attending the fire, loss or damage alleged, that he is acquainted with the character and circumstances of the assured or claimant, and that he verily believes that the assured has by misfortune and without fraud or evil practice sustained loss and damage on the subject assured, to the amount certified.

14. The above proofs of loss may be made by the agent of the assured in case of the absence or inability of the assured himself to make the same, such absence or inability being satisfactorily accounted for.

15. Any fraud or false statement in a statutory declaration in relation to any of the above particulars shall vitiate the claim.

16. If any difference arises as to the value of the property insured, of the property saved, or amount of the loss, such value and amount and the proportion thereof, if any, to be paid by the company, shall, whether the right to recover on the policy is disputed or not, and independently of all other questions, be submitted to the arbitration of some person to be chosen by both parties, or if they cannot agree on one person, then to two persons, one to be chosen by the party assured and the other by the company, and a third to be appointed by the persons so chosen, or in the event of their failing to agree, then by a judge of the supreme court of the North-West Territories; and such reference shall be subject to the provisions of *The Arbitration Ordinance;* and the award shall, if the company is in other respects liable, be conclusive as to the amount of the loss and proportion to be paid by the company; where the full amount of the claim is awarded the costs shall follow the event; and in other cases all questions of costs shall be in the discretion of the arbitrators.

17. The loss shall not be payable until *sixty* days after completion of the proofs of loss, unless otherwise provided for by the contract of insurance.

18. The company, instead of making payment, may repair, rebuild or replace within a reasonable time the property damaged or lost, giving notice of their intention within fifteen days after the receipt of the proofs herein required.

19. *The insurance may be terminated by the company by giving notice to that effect and if on the cash plan by tendering therewith a ratable proportion of the premium for the unexpired term calculated from the termination of the notice;*

*in the case of personal service of the notice five days' notice excluding Sunday shall be given. Notice may be given by any company registered under the provisions of The Foreign Companies Ordinance and having an agency in the Territories by registered letter addressed to the assured at his last post office address notified to the company and where no address notified then to the post office of the agency from which application was received and where such notice is by letter then ten days from the arrival at any post office in the Territories shall be deemed good notice; and the policy shall cease after such tender and notice aforesaid and the expiration of the five or ten days, as the case may be.*

20. No condition of the policy, either in whole or in part, shall be deemed to have been waived by the company unless the waiver is clearly expressed in writing signed by an agent of the company.

21. Any officer or agent of the company who assumes on behalf of the company to enter into any written agreement relating to any matter connected with the insurance shall be deemed *prima facie* to be the agent of the company for the purpose.

22. Every action or proceeding against the company for the recovery of any claim under or by virtue of his policy shall be absolutely barred unless commenced within the term of one year next after the loss or damage occurs.

23. Any written notice to a company for any purpose of the statutory conditions, where the mode thereof is not expressly provided, may be by letter delivered at the head office of the company in the North-West Territories, or by registered post letter addressed to the company, its manager or agent, at such head office, or by such written notice given in any other manner to an authorised agent of the company. 1903, Sess. 1, c. 16.

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## FOREIGN COMPANIES

1903, Sess. 1, c. 14

### An Ordinance respecting Foreign Companies.

19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may cited as *"The Foreign Companies Ordinance 1903."* 1903, Sess. 1, c. 14, s. 1.

### INTERPRETATION.

Interpretation

**2.** In the construction of this Ordinance and of any rules or forms made in pursuance thereof:

1. "Foreign company" shall mean any company or association incorporated otherwise than by or under the authority of an Ordinance of the Territories for the purpose of carrying on any business to which the legislative authority of the Legislative Assembly of the Territories extends;

2. "Registrar" shall mean registrar of joint stock companies and shall include a deputy registrar and an acting registrar;

3. "Charter" shall mean the Statute, Ordinance or other provision of law by or under which a foreign company is incorporated and any amendments thereto applying to such company, or the memorandum of association or agreement or deed of settlement of the company or the letters patent or charter of incorporation or the licence or certificate of registration of the company as the case may be;

4. "Charter and regulations" shall mean the charter and the articles of association and all bylaws, rules and regulations of the company;

5. "Court" shall mean the supreme court of the North-West Territories;

6. "Judge" shall mean judge of the said court. 1903, Sess. 1, c. 14, s. 2.

Foreign company to become registered

**3.** Unless otherwise provided by any Ordinance no foreign company having gain for its object or a part of its object shall carry on any part of its business in the Territories unless it is duly registered under this Ordinance.

(2) Any unregistered foreign company carrying on business and any company, firm, broker or other person carrying on business as a representative or on behalf of such unregistered foreign company shall be liable on summary conviction to a penalty of $50 for every day on which such business is carried on in contravention of this section and proof of compliance with the provisions of this section shall at all times be upon the accused.

(3) *The taking orders by travellers for goods, wares or merchandise to be subsequently imported into the Territories*

*to fill such orders or the buying or selling of such goods, wares or merchandise by correspondence if the company has no resident agent or representative and no warehouse, office or place of business in the Territories the onus of proving which shall in any prosecution under this section rest on the accused shall not be deemed to be carrying on business under the meaning of this Ordinance.* 1903, Sess. 1, c. 14, s. 3 and 1903, Sess. 2, c. 19, s. 1.

Rights of company when registered

4. Any foreign company may become registered on compliance with the provisions of this Ordinance and on payment to the registrar of such fees as would be payable for registration under the provisions of *The Companies Ordinance*; and shall subject to the provisions of its charter and regulations and to the terms of the registration thereupon have the same powers and privileges in the Territories as if incorporated under the provisions of *The Companies Ordinance.* 1903, Sess. 1, c. 14, s. 4.

Procedure to obtain registration

5. Before the registration of any foreign company the company shall file in the office of the registrar:

(*a*) A true copy of the charter and regulations of the company verified in manner satisfactory to the registrar;

(*b*) An affidavit or statutory declaration that the company is still in existence and legally authorised to transact business under its charter;

(*c*) A copy of the last balance sheet of the company or a statement containing the information required to be given in the annual statement made under the provisions of section 8;

(*d*) A duly executed power of attorney under its common seal approved by the registrar empowering some person therein named and residing in the Territories to act as its attorney for the purpose of accepting service of process in all suits and proceedings against the company within the Territories and of receiving all lawful notices and declaring that service of process in respect of such suits and proceedings and of such notices on the said attorney shall be legal and binding to all intents and purposes whatever and waiving all claims of error by reason of such service; and such company may from time to time by a new or other power of attorney executed and deposited as aforesaid appoint another attorney within the

Territories for the purposes aforesaid to replace the attorney formerly appointed. 1903, Sess. 1, c. 14, s. 5.

**6.** Upon compliance by any foreign company with the terms of this Ordinance the registrar shall register such company and issue a certificate of registration; and such certificate of registration shall be conclusive evidence that all the requirements of this Ordinance preliminary to the issue thereof have been complied with.

**Certificate of registration**

(2) Such certificate of registration shall be published by the registrar at the expense of the company in the official gazette. 1903, Sess. 1, c. 14, s. 6.

**7.** The certificate of registration or any copy thereof certified under the hand and seal of the registrar or a copy of the gazette containing such certificate of registration shall be *prima facie* evidence of the due registration of the company as aforesaid. 1903, Sess. 1, c. 14, s. 7.

**Evidence of registration**

**8.** A company registered under this Ordinance shall on or before the first of March in each year during the continuance of such registration make a statement to the registrar verified by affidavit containing as of the thirty-first day of December preceding a summary of the following particulars:

**Annual statement**

(*a*) The corporate name of the company;

(*b*) The place where the head office of the company is situated;

(*c*) The place or places where or from which the undertaking of the company is carried on;

(*d*) The name, residence and post office address of the president, the secretary and the treasurer of the company;

(*e*) The name, residence and post office address of each of the directors of the company;

(*f*) The date upon which the last annual meeting of the company was held;

(*g*) The amount of the capital of the company and the number of shares into which it is divided;

(*h*) The number of shares subscribed for and allotted;

(*i*) The amount of stock, if any, issued free from call; if none is so issued the fact is to be stated;

(*j*) The amount issued subject to call;

(*k*) The number of calls made on each share;

(*l*) The total amount of calls received;

(*m*) The total amount of calls unpaid;

(*n*) The total amount of shares forfeited;

(*o*) The total amount of shares which have never been allotted or subscribed for;

(*p*) The total amount for which shareholders of the company are liable in respect of the unpaid stock held by them;

(*q*) In a concise form such further information respecting the affairs of the company as the directors may consider expedient.

(2) The summary in the next preceding subsection mentioned shall be verified by the affidavit of the president and secretary; or if there is no president or he is unable to make the same by the affidavit of the secretary and one of the directors; or if there is no secretary or he is unable to make such affidavit by the affidavit of the president and one of the directors; or if there is neither a president nor a secretary or they are both unable to make such affidavit by the affidavit of two of the directors; and if the president or secretary does not make or join in the affidavit the reason therefor shall be stated in the substituted affidavit.

(3) The filing with the registrar of an annual return in the form and at the time and verified in the manner required by the provisions of sections 19 and 20 of *The Insurance Act* being chapter 124 of the Revised Statutes of Canada shall relieve any company licensed under the said Act from compliance with the provisions of subsections (1) and (2) of this section.

(4) The registrar may at any time require the company to supply such further and other information as shall seem to him to be reasonable and proper.

(5) Any company making default in complying with the provisions of this section shall be liable on summary conviction to a penalty of $20 for each and every day during which default continues; and every director, manager, secretary, agent, traveller or salesman of such company who transacts within the Territories any business whatever for such company shall be liable on summary conviction to a penalty of $20 for each day upon which he so transacts such business.

(6) The statement or return required by this section shall be accompanied with the fee of $5. 1903, Sess. 1, c. 14, s. 8.

**9.** If the power of attorney hereinbefore prescribed becomes invalid or ineffectual for any reason or if other service cannot be effected the court or judge may order substitutional service of any process, proceeding, notice or document upon the company to be made by such publication as is deemed requisite to be made in the premises for at least three weeks in at least one newspaper; and such publication shall be held to be due service upon the company of such process, proceeding, notice or document. 1903, Sess. 1, c. 14, s. 9.

Substituted service

**10.** Any foreign company required by this Ordinance to become registered shall not while unregistered be capable of maintaining any action or other proceeding in any court in respect of any contract made in whole or in part in the Territories in the course of or in connection with business carried on without registration contrary to the provisions of section 3 hereof.

No right of action by unregistered company

(2) In any action or proceeding the burden of showing that it is registered shall be upon the company. 1903, Sess. 1, c. 14, s. 10.

**11.** Any foreign company registered under this Ordinance may sue and be sued in its corporate name; and if not prohibited from so doing by its charter and regulations may acquire and hold lands in the Territories by gift, purchase or as mortgagees or otherwise as fully and freely as private individuals; and may sell, lease, mortgage or otherwise alienate the same. 1903, Sess. 1, c. 14, s. 11.

Rights of registered company to sue, hold lands, etc.

**12.** Every foreign company registered as a company under this Ordinance shall subject to the provisions of its charter and regulations and of this Ordinance have and may exercise all the rights, powers and privileges by *The Companies Ordinance* granted to and conferred upon companies incorporated thereunder; and every such foreign company and the directors, officers and members thereof shall be subject to and shall, subject as aforesaid, observe, carry out and perform every act, matter, obligation and duty by *The Companies Ordinance* prescribed and imposed upon companies incorporated thereunder or upon the directors, officers and members thereof. 1903, Sess. 1, c. 14, s. 12.

Rights and duties of registered companies

**13.** No licence fee shall be imposed by any municipal council upon any company registered under this Ordinance. 1903, c. 14, s. 13.

No municipal licence fee

Foreign company already licensed not required to refile documents

**14.** Notwithstanding anything heretofore contained in this Ordinance any foreign company holding a licence to carry on business in the Territories under the provisions of any Ordinance in that behalf shall upon surrendering such licence to the registrar be entitled to be registered under this Ordinance without compliance with any further provisions hereof. 1903, Sess. 1, c. 14, s. 14.

Lieutenant Governor's power to suspend or revoke registration

**15.** The Lieutenant Governor in Council may by Order in Council notice of which shall be published in the gazette suspend or revoke the registration of any foreign company which refuses or fails to keep a duly appointed attorney within the Territories or to comply with any provision of this Ordinance; and notwithstanding such suspension or revocation the rights of creditors of the company shall remain as at the time of such suspension or revocation.

(2) The Lieutenant Governor in Council may likewise by order notice of which shall be published in the official gazette remove any such suspension or cancel any such revocation and restore any registration so suspended or revoked. 1903, Sess. 1, c. 14, s. 15.

### FORMS.

Lieutenant Governor may alter forms

**16.** The Lieutenant Governor in Council may prescribe and from time to time alter forms of certificates, powers of attorney, applications, statements, returns and other documents relating to applications and other proceedings under this Ordinance. 1903, Sess. 1, c. 14, s. 16.

Ordinance not to apply to Hudson's Bay Co.

**17.** This Ordinance shall not apply to the corporation known as "The Governor and Company of Adventurers of England trading into Hudson's Bay." 1903, Sess. 1, c. 14, s. 17.

### REPEAL.

Repeal

**18.** Chapter 63 of *The Consolidated Ordinances 1898* intituled *An Ordinance respecting Foreign Corporations* and Chapter 18 of the Ordinances of 1900 amending the same are hereby repealed. 1903, Sess. 1, c. 14, s. 18.

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## FOREST FIRES.

*See* PRAIRIE FIRES.

# FORM AND INTERPRETATION OF ORDINANCES.

*See* INTERPRETATION.

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# GAME PROTECTION.

## An Ordinance for the Protection of Game

1903, Sess. 2, c. 29

[*Assented to November 21, 1903.*] 21 Nov., 1903

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Game Ordinance."* 1903, Sess. 2, c. 29, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires: Interpretation

1. The term "game" shall apply to all animals dead or alive mentioned in sections 4 and 5 of this Ordinance and to the parts of such animals;

2. The term "big game" shall apply to such animals as are mentioned in section 4 of this Ordinance;

3. The term "game bird" shall apply to all birds belonging to the families mentioned in section 5 of this Ordinance;

4. The term "fur bearing animal" shall apply to such animals as are mentioned in section 6 of this Ordinance;

5. The term "close season" shall mean the period during which the killing of any animal is prohibited by this Ordinance;

6. The term "nonresident" shall mean a person who does not reside in the North-West Territories;

7. The term "guardian" shall apply to any person appointed under the provisions of this Ordinance to see to its enforcement;

8. The term "commissioner" shall mean the commissioner of agriculture;

(2) The period of close seasons shall include the first date but not the last mentioned. 1903, Sess. 2, c. 29, s. 2.

PROHIBITIONS.

Hunting on Sunday prohibited

**3.** No person shall hunt, trap, take, shoot at, wound or kill any beasts or birds mentioned in this Ordinance on the first day of the week commonly known as Sunday. 1903, Sess. 2, c. 29, s. 3.

Big game protected

**4.** No person shall hunt, trap, take, shoot at, wound or kill:

1. Any bison or buffalo at any time;

2. Any mountain sheep or goat between the fifteenth day of December and the first day of October in the following year;

3. Any prong horn antelope between the fifteenth day of November and the first day of October in the following year;

4. Any of the deer family whether known as caribou, moose, elk, wapiti, deer or otherwise in that portion of Assiniboia lying south of township 22 and east of range 23 west of the second meridian between the *thirtieth day of November and fifteenth day of November* in the following year and in any event not more than two of such animals and in other parts of the Territories between the fifteenth day of December and the first day of November in the following year and in any event not more than three animals of any one species of such family;

5. Any female or the young thereof under one year of age of any of the above mentioned animals at any time. 1903, Sess. 2, c. 29, s. 4 and 1904, c. 12, s. 1.

Game birds protected

**5.** No person shall hunt, trap, take, shoot at, wound or kill:

1. Any bird of those species of the family *Anatidae,* commonly known as ducks, *geese and swans* between the fifth day of May and the twenty-third day of August;

2. Any bird of the *Gruidae* commonly known as cranes, between the first day of January and the first day of August;

3. Any bird of the *Rallidae* or rails and coots, between the fifth day of May and the twenty-third day of August;

4. Any bird of the *Limicolae,* or shore birds, including snipe, sandpiper, plover and curlew between the fifth day of May and the twenty-third day of August;

5. Any bird of the *Gallinae,* commonly known as grouse, partridge, pheasant, ptarmigan and prairie chicken between the fifteenth day of December and the fifteenth day of September in the following year:

Provided that no English pheasant shall be taken or killed at any time nor shall more than twenty birds of the family of *Gallinae* be killed by one person in any one day nor more than two hundred in a season. 1903, Sess. 2, c. 29, s. 5 and 1904, c. 12, s. 2.

**Fur bearing animals protected**

**6.** No person shall hunt, trap, take, shoot at, wound or kill:

1. Any mink, fisher or marten between the first day of April and the first day of November;

2. Any otter between the first day of May and the first day of November;

3. Any muskrat between the fifteenth day of May and the first day of November;

4. Any beaver at any time before the thirty-first day of December, 1908. 1903, Sess. 2, c. 29, s. 6.

**Hunting over enclosed lands prohibited**

**7.** No person shall at any time hunt, trap, take, shoot at, wound or kill, any bird or other animal mentioned in this Ordinance if it be upon or over any land enclosed by a fence of any kind or any land under cultivation or covered by buildings nor shall he allow his dog or dogs used for hunting to enter upon such lands without having obtained the consent of the owner or occupant thereof. 1903, Sess. 2, c. 29, s. 7.

**Hunting at night prohibited**

**8.** No person shall hunt, trap, take, shoot at, wound or kill any big game or game birds between one hour after sunset and one hour before sunrise. 1903, Sess. 2, c. 29, s. 8.

**Modes of capture prohibited**

**9.** No person shall at any time use or set for the destruction or capture of game birds:

1. Any poison, opium or other narcotic;

2. Any sunken punts, nightlights, traps, nets or snares of any kind; swivel, spring, *automatic* or machine *shot guns;* and any person finding such contrivances set or in use may destroy them without incurring any liability therefor. 1903, Sess. 2, c. 29, s. 9 and 1904, c. 12, s. 3.

**Export of game prohibited**

**10.** No person shall at any time or in any manner take out of, export or cause to be exported from the Territories any big game or game bird without having obtained permission from the commissioner. 1903, Sess. 2, c. 29, s. 10.

***Prima facie* evidence of unlawful killing**

**11.** During the time in which it is unlawful to kill any animal or bird as herein provided the possession of any part of such animal or bird (except the skin) shall be deemed *prima* *facie* evidence that such animal or bird was unlawfully killed or taken. 1903, Sess. 2, c. 29, s. 11.

Mountain sheep or goat not to be sold

**12.** No person other than a game guardian in respect to game forfeited under the provisions of section 26 shall sell or expose for sale, barter or trade nor shall any person buy or obtain from any other person by barter or trade or in any other manner any mountain sheep or goat or any part thereof. 1903, Sess. 2, c. 29, s. 12.

Certain trading prohibited

**13.** No person other than a game guardian in respect to game forfeited under the provisions of section 26 shall at any time offer for sale, barter or exchange any bird of the family *Gallinae* that has been caught or killed by any person other than himself. 1903, Sess. 2, c. 29, s. 13.

Low grade furs not to be exported

**14.** No person shall ship out of the Territories a skin or pelt of any fur bearing animal of lower grade than what is known in the fur trade as No. 3. 1903, Sess. 2, c. 29, s. 14.

Eggs protected

**15.** No person shall at any time wilfully disturb, destroy or take the eggs of any game bird. 1903, Sess. 2, c. 29, s. 15.

Sporting dog to be kept confined

**16.** No owner of a dog used for hunting deer or known by the owner to be accustomed to pursue deer shall allow such dog to run at large in any locality where big game are usually found when such game are protected by this Ordinance and such dog found running such game may be killed by any person without incurring any liability therefor. 1903, Sess. 2, c. 29, s. 16.

### PERMISSIONS.

Permit to take for scientific purposes

**17.** The commissioner may on receipt of an application grant a permit to any person to secure or export for propagation for public parks or zoological gardens or for scientific purposes:

1. One pair of any or each species of big game;
2. One pair of any or each species of game bird;
3. One nest of eggs of any or each species of game bird:

Provided that a fee of $5 accompany the said application which shall state distinctly the species required and the special purpose for which wanted and shall be verified by affidavit.

(2.) The permit shall be returned at the end of the calendar year with a detailed statement of the specimens secured. 1903, Sess. 2, c. 29, s. 17.

Licence for non-residents.

**18.** No person not a resident of and domiciled in the Territories shall be entitled to hunt, trap, take, shoot at, wound or kill any big game or game bird whether protected by this Ordinance or not without having first obtained a licence in that behalf: every such licence shall be signed by the commissioner and shall be in force for the calendar year in which the same is issued and shall be subject to the provisions of the game laws in force in the Territories at the time the said licence is granted: the fee to be paid therefor shall be $25 for a general licence or $15 for a bird licence: such licence shall not be valid unless the signature of the person to whom it is issued is indorsed thereon.

(2) Every such person shall on request by a guardian produce and show to such guardian such licence and if he fails or refuses to do so he shall be deemed to have violated the provisions of this section.

(3) A holder of a general licence shall be entitled to take with him out of the Territories as trophies the head, skin and hoofs of any big game that have been legally killed by him. 1901, c. 32, s. 3.

(4) The commissioner may make regulations regarding the issuing of such licences and for the remuneration of the persons issuing the same either by a proportion of the licence fee or otherwise. 1903, Sess. 2, c. 29, s. 18.

Guest permits.

**19.** Notwithstanding anything contained in the next preceding section any guardian may grant permission in writing in form A in the schedule to this Ordinance for a period not exceeding five consecutive days to any person not a resident of the Territories who is a bona fide guest of any resident of the Territories permitting such person to hunt, take and kill in company with such resident any game within the period in which it is lawful for such resident to hunt.

(2) Before the grant of such permission there shall be filed with the game guardian an affidavit by the applicant and such resident in form B in the schedule to this Ordinance.

(3) The grant of such permission to any person shall not exempt him from penalty for violation of this Ordinance if it shall appear that any statement made in such affidavit is untrue or that such person has since the grant of such permission ceased to be a guest as described in the affidavit.

(4) A fee of one dollar shall be paid to the game guardian for every such permission granted by him and he shall within one month of the granting of any such permission report the same to the commissioner.

(5) Any resident accompanying or aiding a nonresident to hunt or shoot without the necessary permit shall be held equally to have violated the law and shall be liable to like penalties. 1903, Sess. 2, c. 29, s. 19.

Possession by taxidermist

**20.** Any taxidermist may have in his possession at any time the head or other parts of any animal mentioned in this Ordinance for the purpose of preserving, mounting or stuffing the same if accompanied by an affidavit of the owner thereof stating that such animal was lawfully killed or acquired by him in the Territories or elsewhere.

(2) Any game guardian who has reason to believe that any person under cover of this section has any game in his possession contrary to the provisions of this Ordinance shall have power to enter upon the premises of such person and make search in every part thereof for such game. 1903, Sess. 2, c. 29, s. 20.

Close season for imported game birds

**21.** The Lieutenant Governor in Council may when satisfactory reason is shown permit the introduction of foreign game birds and may declare a close season for them during the then current year or may on the receipt of a petition from six game guardians extend the close season for any class of game over the current year within limits. 1903, Sess. 2, c. 29, s. 21.

### PROSECUTIONS.

Penalties

**22.** Any violation of any of the provisions of this Ordinance shall be an offence punishable on summary conviction before a justice of the peace as respects killing or taking of buffalo with a fine not less than $50 and not more than $500 and as respects any other violation of this Ordinance with a fine not exceeding $50 with costs in either case, half of which fine shall be paid to the complainant on his demand therefor and the other half paid into the general revenue fund of the Territories; but if the complainant makes no demand for half of the fine at or before the conclusion of the trial then the whole of the fine shall be paid into the general revenue fund of the North-West Territories; on nonpayment of such fine and costs forthwith after conviction the offender shall be imprisoned in the nearest goal for a period not exceeding two months. 1903, Sess. 2, c. 29, s. 22.

Limitation of prosecution

**23.** No prosecution for violation of any of the provisions of sections 4 or 6 of this Ordinance shall be commenced after twelve months from the date of such violation and no prosecution for violation of any other provision of this Ordinance shall be commenced after three months from the date of such violation. 1903, Sess. 2, c. 29, s. 23.

### GAME GUARDIANS.

**24.** The commissioner may appoint guardians to enforce the provisions of this Ordinance who for that purpose shall have the power of constables. 1903, Sess. 2, c. 29, s. 24.

Appointment of game guardians

**25.** All members of the North-West Mounted Police force shall be *ex officio* game guardians under the provisions of this Ordinance. 1903, Sess. 2, c. 29, s. 25.

N.W.M.P. ex officio game guardians

**26.** Any guardian who has reasonable grounds to believe that an offence has been committed under this Ordinance may seize any game in respect of which he believes such offence has been committed and take the same before the nearest justice of the peace who shall notify the person in whose custody the game was found to appear before him at a certain time and establish the rightfulness of his possession of such game and in the event of his failure so to do the justice may declare such game forfeited and it shall thereupon be the property of such guardian. 1903, Sess. 2, c. 29, s. 26.

Seizure and confiscation of game

### APPLICATION OF ORDINANCE.

**27.** This Ordinance shall only apply to such Indians as it is specially made applicable to by the Superintendent General of Indian Affairs of Canada under the provisions of section 133 of *The Indian Act* as enacted by 53 Victoria, chapter 29, section 10. 1903, Sess. 2, c. 29, s. 27.

Application of Ordinance to Indians

**28.** The provisions of this Ordinance shall not apply to the taking of game by curators of museums in the Territories under the auspices of the Dominion or Territorial Government or to their assistants who may be appointed in writing for the purpose of such museums. 1903, Sess. 2, c. 29, s. 28.

Ordinance not to apply to curators of museums

### REPEAL.

**29.** Chapter 85 of *The Consolidated Ordinances* 1898, chapter 23 of The Ordinances of 1899, chapter 32 of the Ordinances of 1901 and chapter 10 of the Ordinances of 1902 are hereby repealed. 1903, Sess. 2, c. 29, s. 29.

Repeal

## SCHEDULE.

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### FORM A.

*Guest's Shooting Permit.*

Under and by virtue of the power vested in me under the provisions of *The Game Ordinance* permission is hereby given to ............................................. of
..........................the guest of...............
....................of..................in the North-West Territories to hunt, take or kill in the company of the said.............................................
any game under the provisions of the law in that respect, from the .................day of...........................
1....to the................day of...................
1....

..............................

*Fee $1.00.* *Game Guardian.*

1903, Sess. 2, c. 29, Form A.

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### FORM B.

*Affidavit.*

Canada
North-West Territories: } In the matter of
To Wit. } *The Game Ordinance*

We ...................... of.................
and ..................... of...................
severally make oath and say as follows:

1. The said............................is at present residing with the said...............................
(who is a resident of the North-West Territories) as his *bona fide* guest.

2. The said ..................................
has not directly or indirectly received nor is it expected that he will directly or indirectly receive any consideration, wages or compensation from the said.........................
for or in respect of his residence with the said............

Sworn before me at........ | ..........................
in the North-West Territories | (*Signature.*)
this ................day of | ..........................
..................A.D. 1.... | (*Signature.*)

..................................

1903, Sess. 2, c. 29, Form B.

## GAS COMPANIES.

*See* WATER, GAS, ELECTRIC AND TELEPHONE COMPANIES.

## GAZETTE.

*See* PUBLIC PRINTING.

## GOODS.

*See* BILLS OF SALE.
CONDITIONAL SALES OF GOODS.
FACTORS AND AGENTS.
SALES OF GOODS.

## GOVERNMENT.

*See* DEPARTMENTS.
EXECUTIVE GOVERNMENT.
PUBLIC SERVICE.

## GRANTS FOR PATRIOTIC PURPOSES.

*See* MUNICIPAL.

## GRANTS FOR SCHOOLS.

*See* SCHOOL GRANTS.

## GUARDIANS OF INFANTS AND LUNATICS.

*See* JUDICATURE.

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## HAIL INSURANCE.

### An Ordinance respecting Hail Insurance.

1903, Sess. 1, c. 7

*[Assented to April 25, 1903.]* 25 April, 1903

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Hail Insurance Ordinance."* 1903, Sess. 1, c. 7, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Crop"

1. The expression "crop" or "growing crop" means all the wheat or all the oats or all the barley or all the flax or all the speltz or all or any of them specially referred to and growing on the area defined in the application for insurance;

"Minister"

2. The expression "minister" means the member of the Executive Council for the time being administering this Ordinance. 1903, Sess. 1, c. 7, s. 2.

Ordinance to be administered by Territorial treasurer

**3.** Unless and until the Lieutenant Governor in Council otherwise orders this Ordinance shall be administered by the Territorial treasurer. 1903, Sess. 1, c. 7, s. 2.

Minister authorised to make contract of insurance

**4.** Subject to the provisions of this Ordinance and on behalf of the government of the Territories the minister may and he is hereby empowered to enter into a contract to indemnify against actual loss or injury to growing crops by hail to an amount of $4 for each and every acre insured.

(2) No contract shall be valid or binding where the application made under section 5 of this Ordinance is not made before the crops insured shall have been injuriously affected by hail. 1903, Sess. 1, c. 7, s. 4.

Application and receipt to form contract

**5.** Every application for insurance shall be in form A in the schedule hereto; and each such application with the receipt of the minister therefor shall for all the purposes of this Ordinance be deemed the contract of insurance.

(2) The provisions of this Ordinance shall be deemed to be and shall form a part of every contract of insurance. 1903, Sess. 1, c. 7, s. 5.

Post office address to be given

**6.** Each application shall contain the name of the post office to which all notices under this Ordinance shall be mailed. 1903, Sess. 1, c. 7, s. 6.

Fee to be paid on application

**7.** With every application for insurance the applicant shall in addition to an application fee of fifty cents pay to the minister the sum of fifteen cents for every acre to be covered by insurance:

Provided that where the applicant for insurance has only a partial interest in the crop to be insured the rate to be paid per acre shall be that proportion of fifteen cents that the interest of such applicant is in the crop and the insurance to be effected shall be only an insurance of such interest.

(2) No application for insurance shall be accepted from any person who has not fully paid up all amounts due by him under this Ordinance. 1903, Sess. 1, c. 7, s. 7. Rate of insurance

8. The minister is hereby authorised to make such arrangements for the collection and transmission of application forms and fees as may seem to be advisable and necessary: Transmission of application forms and fees

Provided that the cost of such collection and transmission shall in no case exceed the amount of the application fee provided for in the next preceding section. 1903, Sess. 1, c. 7, s. 8.

APPRAISEMENT OF LOSS OR DAMAGE BY HAIL.

9. Whenever any crop insured under this Ordinance is injured by hail the person whose interest in such crop is insured shall forthwith notify the minister by registered letter and shall also notify such person as may have been designated by the minister for that purpose. Notice of loss to be given

(2) Such notification shall be deemed to be sufficient if made by the insured person or by any one else on his behalf. 1903, Sess. 1, c. 7, s. 9.

10. The minister may cause an examination to be made from time to time of any area reported to have been affected by hail. 1903, Sess. 1, c. 7, s. 10. Examination of area affected

11. The minister shall appraise the actual loss or damage done by hail to any crop insured under this Ordinance. Appraisement of loss

(2) In case of loss or injury by hail where it is found that through error or mistake the number of acres of crop insured on any river lot or quarter section forms only a part of the total acreage under crop on the river lot or quarter section in which the person insured has any interest, the minister may pay that percentage of the amount of the indemnity payable on account of such loss or injury that the area insured is of the said total area under crop.

(3) For the purpose of adjustment under this Ordinance no account shall be taken of the value of the crop and in the event of partial loss the amount of compensation to be paid shall bear the same proportion to the total amount of insurance that the loss bears to the total amount of crop. 1903, Sess. 1, c. 7, s. 11.

Submission to arbitration

**12.** If any person is not satisfied with the appraisement of the minister he may have the question of the amount of the loss or damage actually done to his crop by hail submitted to the arbitration of two persons one to be appointed by himself and one by the minister by notifying the minister of his dissatisfaction with such appraisement; and such notification shall be a submission under *The Arbitration Ordinance* and the provisions of the last mentioned Ordinance shall apply thereto. 1903, Sess. 1, c. 7, s. 12.

Costs of arbitration

**13.** The costs of any award of arbitrators made under this Ordinance shall be paid out of the general revenue fund, but should the said award sustain the appraisement made by the minister of the loss or damage done the amount of the indemnity to be paid under the said appraisement shall be reduced by the sum of ten dollars.

(2) In cases where an arbitration is asked for upon an appraisement of no loss or damage having been done the notification required by the next preceding section shall be accompanied by the sum of ten dollars which sum shall be returned if the minister's appraisement is not sustained by the arbitrators. 1903, Sess. 1, c. 7, s. 13.

### PAYMENT OF EXPENSES AND LOSSES.

Statement of minister

**14.** On the fifteenth day of October or as soon thereafter as may be practicable the minister shall submit a statement to the Lieutenant Governor in Council setting forth:

(*a*) The expenditure made in the administration of this Ordinance;

(*b*) An estimate of the probable amount of liabilities and expenses to be incurred to complete the work of the year;

(*c*) The amounts of the several claims as adjusted or otherwise settled;

(*d*) The number of persons insured;

(*e*) The number of acres covered by insurance;

(*f*) The amount paid by applicants for insurance;

together with such further statement as may seem necessary to be made. 1903, Sess. 1, c. 7, s. 14.

Deficiency to be paid out of general revenue

**15.** Where no legislative provision has been made for so doing or where any provision made proves insufficient for the purpose all liabilities incurred under the authority of this

Ordinance may be paid out of the general revenue fund by warrant of the Lieutenant Governor directed to the Territorial treasurer. 1903, Sess. 1, c. 7, s. 15.

**16.** After the coming into force of this Ordinance no company, association or society shall carry on the business of insurance against loss or injury to growing crops by hail. 1903, Sess. 1, c. 7 s. 16. **No company to carry on business of hail nsurance**

**17.** Chapter 9 of the Ordinances of 1901 intituled *"An Ordinance respecting Hail Insurance"* is hereby repealed. 1903, Sess. 1, c. 7, s. 17. **Repeal**

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## SCHEDULE.

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### FORM A.

NO............

GOVERNMENT OF THE NORTH-WEST TERRITORIES.

TREASURY DEPARTMENT.

Application for Insurance against Loss or Injury by Hail under *The Hail Insurance Ordinance.*

Name of applicant...................................
Post office address............District of................

DESCRIPTION OF AREA UPON WHICH CROP IS TO BE INSURED.

| Section.....Township......<br>Range....West....Meridian | Wh't<br>No. of Acres | Oats<br>No. of Acres | B'rl'y<br>No. of Acres | Flax<br>No. of Acres | Sp'ltz<br>No. of Acres | Total |
|---|---|---|---|---|---|---|
| North-east ¼ of Section. | ..... | ..... | ..... | ..... | ..... | .... |
| North-west " " . | ..... | ..... | ..... | ..... | ..... | .... |
| South-east " " . | ..... | ..... | ..... | ..... | ..... | .... |
| South-west " " . | ..... | ..... | ..... | ..... | ..... | .... |
| River lots........... | ..... | ..... | ..... | ..... | ..... | .... |
| in ........ settlement.. | ..... | ..... | ..... | ..... | ..... | .... |
| Total ........... | ..... | ..... | ..... | ..... | ..... | .... |

Tenure of holding (*whether as owner, or under homestead entry, contract to purchase, lease or otherwise*)............
Interest of applicant in crops to be insured................
To whom indemnity is payable should loss occur...........
.................................................

In accordance with the provisions of *The Hail Insurance Ordinance* 1903 in that behalf I hereby make application for insurance against loss or injury caused by hail, and enclose herewith the sum of..............dollars and........cents being at the rate of...........cents for each acre described above. I agree to all of the conditions prescribed by the said Ordinance; and I further agree that should any statement made or to be made by me in connection with this my application for insurance and any contract which may thereupon be entered into prove to be a misstatement such misstatement shall nullify such contract and I shall forfeit all claims under the said Ordinance.

I declare that no portion of the area described above has been injuriously affected this season by hail prior to the date of this application.

I further declare that the crop of wheat, oats, barley, flax and speltz or any of them set out and described in this application is all the crop of each of them respectively growing upon each quarter section or river lot mentioned in the application and in which I have any interest whatsoever.

Dated..................190 .

..............................

In the presence of............. *Applicant.*

...........................

of........................

*Post Office.* 1903, Sess. 1, c. 7, Form A.

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## HAWKERS AND PEDLERS.

*See* AUCTIONEERS.
MUNICIPAL.
VILLAGES.

## HEALTH.

*See* CONTAGIOUS DISEASES.
PUBLIC HEALTH.

# HERDING OF ANIMALS.

## An Ordinance respecting the Herding of Animals.

C.O. 1898, c. 81
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Herd Ordinance."* C. O. 81, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

1. The expression "department" means the department of agriculture; "Department"

2. The expression "minister" means the member of the Executive Council to whom is assigned from time to time the duty of administering the department of agriculture; "Minister"

3. The expression "animal" means any horse, mule, jack, sheep, goat, neat cattle or swine; "Animal"

4. The expression "trespasser" means any animal doing damage in the herd district in the manner mentioned in section 6 of this Ordinance; "Trespasser"

5. The expression "pound keeper" means the person for the time being in the authorised charge of any pound; "Pound keeper"

6. The expression "justice" means any justice of the peace; "Justice"

7. The expression "proprietor" means the owner of any cultivated land or stack of grain or hay or the person having a permit or licence to cut hay or any superintendent, overseer, servant or other person acting for and on behalf of such owner or person; "Proprietor"

8. The expression "owner" means any person owning any animal or any agent or overseer of any such owner; "Owner"

9. The expression "distrainor" means any person seizing or distraining any trespasser; "Distrainor"

10. The expression "run at large" or "running at large" means without being under control of the owner either by being securely tethered or in direct and continuous charge of a herder or by confinement within any building or other inclosure or a fence whether the same be lawful or not; "Running at large"

11. The expression "herd district" means the portion or portions of the Territories to which the provisions of section 6 "Herd district"

of this Ordinance have been declared to apply in the manner provided in sections 3 and 4 of this Ordinance. C. O. 81, s. 2.

### ORGANISATION OF HERD DISTRICTS.

What districts may be organised and how

**3.** The Lieutenant Governor in Council may by Order made public by notice in the official gazette declare that the provisions of section 6 of this Ordinance shall apply to any part of the provisional district of Assiniboia lying to the east of range seventeen west of the third meridian in the Dominion Lands system of survey or any part of the provisional district of Saskatchewan not within the limits of any pound district and being not less than 144 square miles in area; and thereafter the Lieutenant Governor in Council by Order made public in like manner may enlarge such district by adding thereto any adjoining area or may cancel the Order or Orders constituting such district or any part of such district. C. O. 81, s. 3.

Notice to be given

**4.** Before making any such declaration a notice of intention to do so shall be published in the official gazette and posted in at least one post office in each township within that part of the Territories to be affected by such recommendation or if there be no post office in such township then in the post office nearest thereto at least thirty days prior to making such recommendation.

How

(2) Such notice shall be addressed to the post master at such post office inclosed in a registered cover; and all the requirements of this Ordinance respecting the posting of notices shall be held to be completed at the expiration of twenty-four hours after the first mail carrying such notice is scheduled to reach the post office to which the notice is directed.

Objections how to be made

(3) If at any time within thirty days after such notice is posted objection is made by a majority of the proprietors of land within such proposed district in form A in the schedule hereto, the facts stated in such objection and the signatures thereto being verified by statutory declaration, the proposed declaration shall not be made with respect to such district; but if no such objection is made within thirty days from the posting of the notice the proposed declaration may be made as hereinbefore provided. C. O. 81, s. 4.

### OPERATION OF ORDINANCE.

When Ordinance shall operate

**5.** The provisions of section 6 of this Ordinance shall apply in the herd district between the fifteenth day of May and the thirtieth day of October, both days inclusive, in each year and shall commence to take effect in any area brought under the operation of the said section after the passing of this Ordinance on, from and after the fourteenth day after the date of the issue of the official gazette containing the notification of such area being brought under the provisions of the said section 6 in the manner hereinbefore provided. C. O. 81, s. 5.

**Actions for the doing of which animals may be impounded**

**6.** Any proprietor may distrain any animal in the herd district within any period in which this section is in force in such district which is doing damage upon his cultivated land or stacks of grain or hay or upon any slough growing hay in his possession or with respect to which he has a permit or licence to cut hay; and when any such distress is made the distrainor may drive and deliver the animal distrained to the nearest accessible pound keeper in the herd district and the said pound keeper shall impound such animal and shall be responsible for the feed and safe keeping thereof so long as he is legally bound to hold the same and such pound keeper is empowered to collect the amount of the damage caused by and all the charges for the keeping and other incidental expenses connected with such animal before delivering up the same to the owner; and it shall be the duty of the distrainor to leave with the pound keeper a statement in writing describing the animal distrained, the name of the owner (if known), the place where such distraint was made, the extent of the damage and the amount of the claim therefor and of his reasonable charges incurred in driving such animal to and delivering the same to the pound keeper. C. O. 81, s. 6.

**Stallions or bulls in herd district**

**7.** No procedure under *The Entire Animals Ordinance* shall be taken with respect to stallions or bulls in any herd district, but if the proprietor of any land in any herd district captures any stallion or bull running at large within such herd district he shall drive such stallion or bull to and deliver the same at the nearest accessible pound in the said herd district whether the owner of such stallion or bull be known to the captor or not; and such stallion or bull shall be dealt with in every way as a trespasser may be dealt with under this Ordinance:

**Proviso**

Provided that the owner of any stallion or bull, who after receiving a notice signed by a justice of the peace that such stallion or bull is running at large contrary to the provisions of this Ordinance and requiring such owner to capture and confine the same neglects or refuses within forty-eight hours to comply with such notice, shall be guilty of an offence and liable on summary conviction thereof before a justice of the peace to a penalty of $5 for every day after the expiration of the time mentioned in said notice the stallion or bull is at large. C. O. 81, s. 7.

Animal to be placed in authorised pound

**8.** Any proprietor who shall impound any animal in any pound or place not authorised by this Ordinance shall be guilty of an offence and upon summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $20.

Temporarily impounded

(2) Any such proprietor upon whose property any animal is found trespassing may (if he know its owner) temporarily impound the same in any convenient place for a period not exceeding three days and shall within twenty-four hours after such impounding deliver to such owner a written memorandum in like manner as it is hereinbefore enacted shall be delivered to a pound keeper with any trespasser impounded in his pound; and shall feed and maintain such animal so impounded; and may at the expiration of such time (if not sooner duly released) deliver it to the keeper of the nearest accessible pound; and such proprietor may make a charge for feeding and maintaining such animal and for sending notice not exceeding such as might by law be made by a pound keeper, but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding. C. O. 81, s. 8.

### APPOINTMENT OF POUND KEEPERS.

Pound keepers to be appointed by the minister

**9.** In any herd district the minister may appoint one or more pound keepers therefor and notice of every such appointment shall be published in the official gazette, describing the name and post office address of such pound keeper and the location of the pound:

Proviso

Provided that all pounds established or pound keepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and the pound keepers appointed under the provisions of this Ordinance and subject to the provisions thereof. C. O. 81, s. 9.

All appointments to terminate on December 31 annually

**10.** Every appointment of a pound keeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all pound keepers so appointed may at the expiry of each period of twelve months be eligible for reappointment.

Resignation of pound keeper

(2) Any pound keeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such pound keeper is appointed. C. O. 81, s. 10.

Publication of notices

**11.** Every notice of the appointment or removal of any pound keeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such pound keeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. C. O. 81, s. 11.

### DUTIES OF POUND KEEPERS.

Book to be kept by pound keeper

**12.** Every pound keeper shall keep a pound book in a form to be prescribed by the minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the pound keeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West Mounted Police force free of charge and of any other person upon payment of the sum of ten cents; and every such pound keeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred.

and handed over to successor

(2.) Every pound keeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. C. O. 81, s. 12.

Pounds to be kept clean

**13.** Every pound keeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the pound keeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every pound keeper shall be responsible to the owner of any impounded animal for every loss or damage occasioned by any act of himself or his agent. C. O. 81, s. 13.

Returns to be made

**14.** Every pound keeper shall make such return to the minister relating to the impounding of animals in his pound as may from time to time be required by him. C. O. 81, s. 14.

### PAYMENT OF CHARGES ON IMPOUNDED ANIMALS.

Charges to be payable to pound keeper

**15.** All charges payable in respect of any impounded animal shall be payable in the first instance to the pound keeper who shall hold the same subject to the provisions of this Ordinance for the person entitled thereto. C. O. 81, s. 15.

Penalty for improper impounding

**16.** No charges or claim for damage done shall be payable to or recoverable by any person in respect of the trespass of or damage done by any animal who shall impound or detain such animal for upwards of three days in any place not being a pound within the meaning of this Ordinance. C. O. 81, s. 16.

Animal may be released before impounding

**17.** Whenever any animal has been captured or distrained by any person under any of the provisions of this Ordinance for the purpose of impounding the same if the owner of the animal or some person on his behalf pay or tender to the person seizing or having charge of such animal before the same has been actually impounded the charges for which such animal has then become liable under this Ordinance, the person having charge of such animal shall forthwith deliver up the same to the owner or the person tendering the said charges on his behalf. C. O. 81, s. 17.

Pound keeper to detain all animals impounded

**18.** Every pound keeper shall receive and detain in his custody any animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges shall be paid or until he shall receive notice of the decision of the justice as hereinafter provided. C. O. 81, s. 18.

### NOTICE OF IMPOUNDING.

Notices to be given by pound keeper

**19.** If the owner of any impounded animal is known to the pound keeper the pound keeper shall forthwith deliver at or post to the address of such owner a notice in form B in the schedule hereto.

(2) In case such owner is not known or such owner or person notified shall not within three days after the posting or delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages the pound keeper shall forward to the department for insertion in two consecutive issues of the official gazette a notice in form B in the schedule hereto. C. O. 81, s. 19.

Copies of all notices to be posted at pound

**20.** Every pound keeper shall without charge therefor in addition to any copies of any notice which he may be required under this Ordinance to post or deliver, post a copy of every such notice in a conspicuous place at his pound and shall keep and maintain such notice at his pound during the whole of such time such notice may refer to. C. O. 81, s. 20.

### SALE OF IMPOUNDED ANIMALS.

When impounded animals may be sold

**21.** When any animal shall not have been released from the pound within twenty days after the notice has been inserted in the official gazette as in section 19 mentioned the said animal shall be sold by public auction after notice of such sale shall have been posted for eight days in three conspicuous places within the herd district (one of which shall be the post office nearest the pound); and at such sale the pound keeper shall be the auctioneer and such sale shall be held at the pound and shall commence at the hour of two o'clock in the afternoon and the pound keeper shall neither in person nor by his agent purchase any animal at such sale or have any interest of any kind in any animal so purchased. C. O. 81, s. 21.

Pound keepers not to have interest in sale

**22.** If more than one animal is impounded on any distress and the owner thereof is known the pound keeper shall not sell any more of such animals after he has realised from the sales sufficient to satisfy the claims for damages, expenses and fees chargeable against the animals and the owner of the animals shall be entitled to those remaining unsold.

When animals may not be sold

(2) If the owner of the animals is unknown the pound keeper shall sell all the animals impounded.

(3) The pound keeper shall immediately after such sale send to the department a description of the animal or animals sold, the date of sale, the amount realised and the disposition thereof. C. O. 81, s. 22.

**23.** No pound keeper making a sale under the provisions of any Ordinance shall be liable to a penalty for selling without a license as an auctioneer. C. O. 81, s. 23.

Pound keeper need not be licensed as auctioneer

### PROCEEDS OF SALE, HOW DISPOSED OF.

**24.** The proceeds of the sale of any impounded animal sold under the provisions of this Ordinance shall be applicable in payment:

Disposal of proceeds of sale

(*a*) Of any costs and charges attending such sale;

(*b*) Of all sustenance fees;

(*c*) To the impounder of such animal of the amount due to him for mileage charges and for the damage done;

(*d*) The residue if any to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the minister. C. O. 81, s. 24.

**25.** Any money paid to the minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence (satisfactory to the minister or other officer appointed to examine into the same) being

Owner's claim to net proceeds

furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C. O. 81, s. 25.

### COMPLAINTS OF OWNER.

**What action may be taken by owner**

**26.** The owner of any impounded animal may give notice in writing to the pound keeper that he intends to complain to a justice against the person impounding such animal; and upon receipt of such notice and on deposit with the pound keeper of the amount claimed for damages together with the pound and other authorised fees and charges the pound keeper shall release such animal and shall retain such amount subject to the order of the justice as hereinafter provided.

**How complaint shall be formulated**

(2) Such complaint may be upon one of the following grounds:

(*a*) That the impounding was illegal; or

(*b*) That the damages claimed are excessive; or

(*c*) That the impounding was illegal but that in any event the damages are excessive;

but the justice shall not inquire into any complaint notice of which has not been given. C. O. 81, s. 26.

**Hearing of complaint**

**27.** Within ten days after giving the notice in the last preceding section mentioned the owner may lodge his complaint as set forth in the notice with a justice of the peace who thereupon shall institute the like proceedings as are authorised under part LVIII of *The Criminal Code 1892* for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint; and if the justice:

1. Adjudges that the animal impounded was illegally impounded as claimed the justice shall order the said animal (if not released) to be restored to the owner or (if released) the money deposited with the pound keeper to be repaid and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the pound keeper is lawfully entitled to; or

2. Finds on a complaint laid as in clause (*b*) of subsection (2) of the last preceding section the amount of damages the impounder has sustained to be less than claimed then the justice shall order the excess and the owners costs of the proceedings to be paid to the owner by the pound keeper out of the

money paid in by the owner; and if no money has been paid in by the owner the justice shall order the payment forthwith of the amount of the damages so fixed less the cost of the proceedings and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

3. Adjudges that the animal impounded was legally impounded or that the amount of the damage sustained was not less than the amount claimed then the justice shall make an order for the payment forthwith of the amount claimed by the impounder and all pound and other authorised fees together with the costs of the proceedings; and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

4. Finds on a complaint laid as in clause (*c*) of subsection (2) of the last preceding section that the animal was legally impounded but that the damages sustained by the impounder were less than claimed the justice shall make an order as directed by paragraph 2 of this section but shall not allow costs to either party and proceedings shall be taken on any such order as provided by such paragraph. C. O. 81, s. 27.

**Owner's remedies at common law**

**28.** Nothing in this Ordinance contained shall deprive the owner of any animal impounded of any action, remedy or right that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded:

**Proviso**

Provided always that if any action be brought against a pound keeper for anything done by him under this Ordinance he may plead not guilty to such action; and if on the trial of such action it is made to appear that the said pound keeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such pound keeper judgment shall then be given for him with costs. C. O. 81, s. 28.

**Damages may be claimed by action in competent court**

**29.** Nothing herein contained shall prevent the owner of any lands trespassed upon or of any property destroyed from waiving the rights created by this Ordinance and bringing his action in any competent court in consequence of any trespass. C. O. 81, s. 29.

### OFFENCES AND PENALTIES THEREFOR.

**Penalties pound keepers are liable to for—**

**30.** If any pound keeper:

**Impounding**

1. Impounds or assists or incites or employs any person to impound any animal in any district unless such animal was

doing damage on the pound keepers own property as described in section 6 of this Ordinance;

Purchasing impounded animals

2. Purchases in person or by his agent or has any interest of any kind in any animal sold by auction at a pound of which he is at the time of such sale the pound keeper;

Making unauthorised charges

3. Demands or receives any sum for pound notices, sustenance and other fees and charges not authorised by this Ordinance;

Not paying over moneys

4. Fails to pay over any money held by him under the provisions of this Ordinance for any person after payment of the same has been demanded by or on behalf of such person;

Neglecting to care for impounded animals

5. Neglects to provide food and water for any animal or works or uses the same in any manner while so impounded:

Milking cows

Provided that no pound keeper shall be liable for any penalty for milking or allowing to be milked any cow while such cow is impounded;

Not keeping books

6. Omits or neglects to keep books and to make entries therein as required by this Ordinance or makes any incorrect or untrue entry in such books;

Impounding healthy with diseased animals

7. Allows any animal affected with any contagious or infectious disease to be in the same inclosure with any impounded animal not so affected;

Not giving proper notice

8. Fails to give any notice required by this Ordinance;

Causing damage by neglect

9. Neglects to do anything required by this Ordinance to be done whereby damage is incurred by any person;

he shall in addition to any civil liability which he may incur by reason thereof be guilty of an offence and liable on summary conviction to a penalty not exceeding $100. C. O. 81, s. 30.

Burden of proof that animals are cared for on pound keeper

**31.** When any pound keeper is charged with neglecting to provide sustenance for any animal impounded the burden of proving that proper sustenance was provided for such animal shall be on such pound keeper, and when any pound keeper is charged with losing any impounded animal through negligence if it be proved that such animal was impounded in the custody of such pound keeper such animal shall be deemed to have been lost through his negligence unless such pound keeper shall prove the contrary. C. O. 81, s. 31.

Penalties

**32.** If any person commit any of the next following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100:

Rescuing impounded animal

1. Rescues or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded;

Destruction of pound

2. Destroys or injures or attempts to destroy or injure any pound;

Illegal impounding

3. Illegally impounds any animal;

Causing animal to trespass

4. Drives any animal upon any cultivated land or to any stack of grain or hay or upon any slough growing hay. C. O. 81, s. 32.

### FEES.

Authorised fees

**33.** The following and no other shall be the fees authorised by this Ordinance in connection with animals impounded within any herd district:

Expenses for driving animal to pound

1. To the proprietor of any land trespassed upon or other property injured by any animal or the proprietor capturing any estray, for driving and delivering such animal to the pound keeper, his reasonable expenses;

Capturing stallion or bull

2. To such proprietor for capturing and impounding any stallion of the age of one year and upwards or any bull of the age of nine months and upwards, a fee of $5;

Damages

3. To such proprietor for any damage done by any animal an amount not to exceed that mentioned in the statement of claim delivered to the owner or pound keeper with the animal when impounded;

Giving notice or for temporary impounding

4. To such proprietor for notifying the owner or for every day any animal is lawfully detained before being placed in pound, such fees for making such notification and for the sustenance of such animal as a pound keeper may be authorised to charge for like services;

Sustenance of impounded animals

5. To the pound keeper to provide for the care and sustenance of each animal for each day such animal is impounded as follows:

For each stallion or bull, twenty-five cents;
For each other horse, mule, jack, head of cattle or swine, fifteen cents;
For each sheep or goat, five cents;

Notice to owner

6. To the pound keeper for notifying owner of animal impounded, ten cents;

Notice to department

7. To the pound keeper for forwarding notification to department for insertion in the official gazette, ten cents.

Notices posted in district

8. To the pound keeper for posting notices of animals impounded, each such notice to include all animals impounded

**Advertising** at one distress or seizure, $1; and the actual cost of newspaper advertising, not to exceed $1; when incurred;

**Notices of sale** 9. To the pound keeper for posting notices of sale, each such notice to include all animals impounded at one distress or seizure, $1.

**Mileage** 10. To the pound keeper for each mile necessarily travelled in the performance of his duties, ten cents.

**Sale charges** 11. To the pound keeper for selling impounded animals and applying the proceeds as directed by this Ordinance, $2.50 per centum commission upon the amount realised on the sale. C. O. 81, s. 33.

## SCHEDULE.

### FORM A.

To the Lieutenant Governor in Council:

We, the undersigned, being proprietors or occupiers of land in (*here describe the district proposed to be constituted as a herd district*) hereby record our objection to the provisions of *The Herd Ordinance* being enforced within the said District:

| NAME. | LAND OWNED OR OCCUPIED. | | | | |
|---|---|---|---|---|---|
| | Quarter | Section | To'nship | Range | West Meridian |
| | | | | | |

I, *A. B.,* of (*post office address*) do solemnly declare:

1. That the total number of persons in the area described in the foregoing statement of objection being holders or occupiers of land under whatever tenure or superintendents, overseers or other duly authorised persons acting for or on behalf of such holders or occupiers, is (*here insert the total number of persons residing in the proposed herd district and owning or occupying land therein*);

2. That I was personally present and did see each of the (*number of persons signing the statement*) persons whose names are subscribed thereto sign the said statement;

3. That each of the (*number of persons signing the statement*) persons signing the statement is qualified to do so by virtue of being the holder or occupier of land under whatever tenure or a superintendent, overseer or other duly authorised person acting for or on behalf of such holder or occupier of land within the proposed herd district;

4. That each person signing the said statement before so doing was cognisant of the contents thereof.

And I make this solemn declaration conscientiously believing it to be true and knowing it to be of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

(*Signature of person making declaration.*)

Declared before me
at
this day
of 1 .

(*Signature of person administering declaration.*)
C. O. 81, Form A.

## FORM B.

To (*name of owner or* Department of Agriculture, *as the case may be.*)

Notice is hereby given under section 19 of *The Herd Ordinance* that (*description of animal impounded*) was impounded in the pound kept by the undersigned on the (*description of quarter section or other place where pound is located*) on day the day of 1 .

(*Signature of Pound Keeper.*)
C. O. 81, Form B.

## HIRE RECEIPTS.

*See* ADDITIONAL SALES OF GOODS.

# HORSE BREEDERS.

1903 c. 23

## An Ordinance to Protect Horse Breeders in the North-West Territories.

19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Horse Breeders' Ordinance."* 1903, Sess. 1, c. 23, s. 1.

### INTERPRETATION.

Interpretation

**2.** The expression "commissioner" means the commissioner of agriculture;

The expression "department" means the department of agriculture;

The expression "owner" includes a part owner. 1903, Sess. 1, c. 23, s. 2.

Registration of stallions

**3.** Every person, firm or company standing or travelling any stallion for profit or gain in the North-West Territories shall cause the name, description and pedigree of such stallion to be enrolled in the department and shall procure a certificate of such enrolment as hereafter provided.

(2) No fee shall be required for such enrolment and certificate for any stallion registered under the provisions of chapter 20 of the Ordinances of 1899 but in all other cases there shall be paid for such enrolment and certificate a fee of $2.

(3) Upon a transfer of the ownership of any stallion enrolled under this section the certificate of enrolment may be transferred to the transferee by the commissioner upon proof to his satisfaction of such transfer and upon payment of the fee of $1. 1903, Sess. 1, c. 23, s. 3.

Copies of certificate of registration to be posted up

**4.** The owner of any stallion shall post up and keep affixed during the whole of the season copies of the certificate of such stallion issued under the next preceding section in a conspicuous place both within and upon the outside of the main door leading into every stable or building where the said stallion stands regularly for public service. 1903, Sess. 1, c. 23, s. 4.

**5.** The certificate issued for a stallion whose sire and dam are of pure breeding and which is registered in a stud book approved by the commissioner shall be in form A in the schedule hereto. 1903, Sess. 1, c. 23, s. 5. Certificate of pure bred stallion

**6.** The certificate issued for a stallion whose sire or dam is not of pure breeding shall be in form B in the schedule hereto. 1903, Sess. 1, c. 23, s. 6. Certificate of grade stallion

**7.** The certificate issued for a stallion whose sire and dam are pure bred but not of the same breed shall be in form C in the schedule hereto. 1903, Sess. 1, c. 23, s. 7. Certificate of cross bred stallion

**8.** Every bill, poster or advertisement issued by the owner of any stallion enrolled under this Ordinance or used by him for advertising such stallion shall contain a copy of its certificate of enrolment. 1903, Sess. 1, c. 23, s. 8. Advertisements of stallions

**9.** The production of any bill, poster or other printed or written matter advertising any stallion for public service shall be *prima facie* evidence that such bill, poster or other advertising material was used to advertise the stallion named and described therein by or with the consent of the owner or owners of the said stallion. 1903, Sess. 1, c. 23, s. 9. Evidence of advertisement

### REGISTRATION OF LIEN FOR SERVICE.

**10.** The owner of any stallion holding a certificate of enrolment for such stallion under section 5 of this Ordinance or his agent may file in the office of the registration clerk of the registration district for mortgages and other transfers of personal property in which the owner or person in charge of any mare upon which such stallion performs service resides, within twelve months after such service is performed, a statutory declaration setting forth: Filing evidence of claim for service

1. The amount of service fee;
2. That the same is unpaid;
3. The fact of such service;
4. A reasonable description of such mare; and
5. The name and residence of the owner of such mare.

(2) For filing such statutory declaration the registration clerk shall be entitled to a fee of ten cents. 1903, Sess. 1, c. 23, s. 10.

**11.** The owner of such stallion upon filing such statutory declaration and complying with the provisions of this Ordin- Effect of filing ance shall have a lien for the amount of said service fee and costs as hereinafter provided upon the colt or filly the offspring of any such stallion by reason of the service in respect of which such statutory declaration is filed which lien shall take and have priority over any and all writs of execution, chattel mortgages, bills of sale, claims and incumbrances whatsoever. 1903, Sess. 1, c. 23, s. 11.

### ENFORCEMENT OF LIEN.

Sale of colt

**12.** If payment of the service fee is not made before the first day of January in the year following the year in which the colt or filly is born, the owner of said stallion or his duly authorised agent may at any time before the first day of May following take possession of the colt or filly upon which he has such lien as aforesaid wherever the same may be found and may proceed to sell the same by public auction after giving the person in whose possession the said colt or filly was when taken ten days' notice in writing of such intention to sell which notice may be effectually given to such person by delivering the same to him personally or by posting it upon the door of such person's last known place of residence in the North-West Territories. 1903, Sess. 1, c. 23, s. 12.

Application of proceeds

**13.** The proceeds of sale shall be applied first in payment of the reasonable expenses of the taking of possession, giving of notice, and conduct of sale, not in any case to exceed $10 in all, and next in payment of said service fee, and the balance shall be paid forthwith by the owner of the stallion to the person from whose possession such colt or filly was taken. 1903, Sess. 1, c. 23, s. 13.

Penalties

**14.** Violation of any of the provisions of this Ordinance shall be an offence for which the offender shall be liable on summary conviction to a penalty not exceeding $25. 1903, Sess. 1, c. 23, s. 14.

Repeal

**15.** Chapter 20 of the Ordinances of 1899 is hereby repealed. 1903, Sess. 1, c. 23, s. 15.

Commencement

**16.** This Ordinance shall come into force on the first day of January, 1904. 1903, Sess. 1, c. 23, s. 16.

## SCHEDULE

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### FORM A.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

*Certificate of Pure Bred Stallion No.*

The pedigree of the stallion (Name)
described as follows:
(colour)
foaled in the year , has been examined in the department and I hereby certify that the said stallion is of pure breeding and is registered in a stud book recognised by the department.

*Commissioner of Agriculture.*
1903, Sess. 1, c. 23, Form A.

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### FORM B.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

*Certificate of Grade Stallion No.*

The pedigree of the stallion (Name)
described as follows:
*(colour)*
foaled in the year , has been examined in the department and it is found that the said stallion is not of pure breeding and is, therefore, not eligible for registration in any stud book recognised by the department.

*Commissioner of Agriculture.*
1903, Sess. 1, c. 23, Form B.

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### FORM C.

GOVERNMENT OF THE NORTH-WEST TERRITORIES OF CANADA.
DEPARTMENT OF AGRICULTURE.

*Certificate of Cross Bred Stallion No.*

The pedigree of the stallion
described as follows:
*(colour)*

foaled in the year , has been examined in the department and it is found that his sire is registered in the and his dam in the

Such being the case, the said stallion is not eligible for registration in any stud book recognised by the department.

*Commissioner of Agriculture.*

1903, Sess 1, c. 23, Form C.

# HOSPITALS.

1901 c. 8

## An Ordinance to regulate Public Aid to Hospitals.

12 June, 1901

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Hospitals Ordinance."* 1901, c. 8, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Commissioner"

1. The expression "commissioner" means the commissioner of agriculture;

"Department"

2. The expression "department" means the department of agriculture;

"Patient"

3. The expression "patient" means every person admitted to a hospital for actual treatment and stay upon the order of a duly qualified medical practitioner. 1901, c. 8, s. 2.

Aid to hospitals

**3.** Such hospitals in the Territories as the Lieutenant Governor in Council may designate upon complying with the provisions of this Ordinance and of all regulations made thereunder shall receive public aid at the rate of twenty-five cents per day for each day's actual treatment and stay of every patient in such hospital during the calendar year next preceding the year for which such aid is given. 1901, c. 8, s. 3.

Advances on account from time to time

**4.** The Territorial treasurer may advance and pay by such periodical payments as the Lieutenant Governor in Council may from time to time fix and determine all sums which any hospital may be entitled to receive under this Ordinance out of any moneys in his hands applicable to general purposes or specially appropriated for the purpose by the Legislative Assembly. 1901, c. 8, s. 4.

**5.** The Lieutenant Governor in Council may prescribe regulations respecting the management, maintenance and accommodation of all hospitals receiving public aid under this Ordinance. 1901, c. 8, s. 5. **Lieutenant Governor in Council may prescribe regulations**

### RETURNS.

**6.** The commissioner may from time to time fix and direct the particulars to be contained in and the form, manner and time of making returns; and shall fix and direct the form and manner of oath, affirmation or declaration required for the verification of any such return and the person or persons by whom such oath shall be made. 1901, c. 8, s. 6. **When and how returns to be made**

### INSPECTION OF HOSPITALS.

**7.** The commissioner may appoint one or more inspectors to inspect and report upon every such hospital; and for such purpose such inspector or inspectors shall make all proper inquiries as to the maintenance, management and affairs thereof and by examination of the registers and by such other means as may be deemed necessary satisfy himself or themselves as to the correctness of any returns made under this Ordinance. **Inspection of hospitals**

(2) If any inspector should report that any patient was not a fit subject for hospital treatment for all or part of the time during which he was kept in the hospital the commissioner may refuse to make any payment in respect of such patient for the time during which he is so reported as not being a fit subject for hospital treatment. 1901, c. 8, s. 7.

### FALSE RETURNS.

**8.** Any person who knowingly and wilfully makes or is a party to or procures to be made directly or indirectly any false return under this Ordinance shall thereby incur a penalty of $100 which penalty may be recovered with costs by civil action or proceeding at the suit of the attorney general in any form allowed by law in the supreme court of the Territories. 1901, c. 8, s. 8. **Penalty for making false return**

Repeal

**9.** *The Hospitals Ordinance* being chapter 20 of *The Consolidated Ordinances 1898* is hereby repealed. 1901, c. 8, s. 9.

Commencement

**10.** This Ordinance shall come into force on the first day of July, A.D. 1901. 1901, c. 8, s. 10.

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## HOTELS.

*See* KEEPERS OF HOTELS AND BOARDING HOUSES.
LIENS.
LIQUOR LICENCE.

## ILLEGITIMATE CHILDREN.

*See* DEVOLUTION OF ESTATES.
SUPPORT OF ILLEGITIMATE CHILDREN.

## IMPROVEMENTS.

*See* LOCAL IMPROVEMENT.

## INFANTS' CUSTODY AND PROPERTY.

*See* JUDICATURE.

## INJURIES TO STOCK.

*See* STOCK INJURED BY RAILWAY TRAINS.

## INJURIES TO WORKMEN.

*See* WORKMEN'S COMPENSATION.

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# INQUIRIES CONCERNING PUBLIC MATTERS.

C. O. 1898 c. 12
15 March, 1899

## An Ordinance repecting Inquiries Concerning Public Matters.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Commissions of inquiry

**1.** The Lieutenant Governor in Council may, when he deems it expedient to cause inquiry to be made into and concerning any matter within the jurisdiction of the Legislative Assembly and connected with the good government of the Territories or the conduct of the public business thereof, appoint commissioners to make such inquiry and to report thereon. C. O. 12, s. 1.

Powers of commissioners

**2.** The Lieutenant Governor may by the commission by which he appoints them confer upon the commissioners the power of summoning witnesses before them and to require such witnesses to give evidence on oath, orally or in writing or on solemn affirmation (if they are persons entitled to affirm in civil matters) and to produce such documents and things as the commissioners may deem requisite to the full investigation of the matters into which they are appointed to inquire; and the commissioners shall have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases. C. O. 12, s. 2.

Inspection of public offices

**3.** The Lieutenant Governor in Council may appoint one or more inspectors to visit and inspect the office of any clerk or deputy clerk of the supreme court, any sheriff or deputy sheriff or registration clerk and make all proper inquiries as to the maintenance, management and affairs of any such office; and by examination of the books and by such other means as he may deem necessary such inspector shall particularly satisfy himself as to the correctness of any returns required under any Ordinance or under any order of the Lieutenant Governor in Council to be made by the officer whose office he is inspecting upon all matters which the inspector shall make report to the Lieutenant Governor.

(2) *The Lieutenant Governor in Council may also from time to time when he deems it expedient appoint an inspector to examine into the affairs of any public administrator or any other public officer whether such person has ceased to be such public administrator or other public officer or not and report to him upon the condition of such affairs.* C. O. 12, s. 3 and 1903, Sess. 1, c. 5, s. 1.

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# INSANE PERSONS.

## An Ordinance respecting Insane Persons.

C.O. 1898, c. 90
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Issue of warrant on information before J.P.

**1.** When an information is laid before a justice of the peace that any person is or is suspected and believed to be insane such justice may issue his warrant in form A in the schedule hereto to apprehend such person and cause him to be brought before him or some other justice of the peace. C. O. 90, s. 1.

Evidence to be taken

**2.** Upon the person charged as aforesaid being brought before such justice the said justice shall proceed to hear such evidence under oath as may be adduced with reference:

(*a*) To the alleged insanity of the person so brought before him, adjourning the inquiry from time to time as may be necessary for the purpose and remanding him meanwhile to gaol or other safe custody;

(*b*) To his residence for at least the six months previous to the inquiry;

(*c*) To his calling or profession;

(*d*) To his means of support;

(*e*) To the fact of his being married or unmarried; also

(*f*) As to whether or not the said person if committed under the provisions of this Ordinance will be sent back to his former residence and at whose cost. C. O. 90, s. 2.

Committal if found insane

**3.** If after hearing the evidence adduced the justice of the peace is satisfied the person so brought before him is insane such justice shall commit him by warrant in form B in the schedule hereto to a gaol *or other safe custody* there to remain until the pleasure of the Lieutenant Governor is known or until the said person is discharged by law and shall forthwith make a report of the case accompanied with * * * the information and evidence taken, to the attorney general, who shall have power if he sees fit to order further inquiries to be made. C. O. 90, s. 3 and 1899, c. 24, ss. 1 and 2.

Otherwise discharged

**4.** In case it appears to such justice that such person is not insane the justice shall discharge him. C. O. 90, s. 4.

Power to summon witnesses

**5.** The justice of the peace acting under the provisions of this Ordinance shall have the like authority for compelling the attendance of witnesses as such justice would have under any law or statute in force respecting summary convictions and shall be entitled to the same fees. C. O. 90, s. 5.

## SCHEDULE.

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## FORM A.

Canada: } To all or any of the constables or
North-West Territories, } other peace officers of the said Territories:

Whereas information upon oath hath this day been laid before the undersigned,                a justice of the peace in and for the said Territories, that *A. B.* (*or* a certain male *or* female person whose name is unknown) is insane;

These are therefore to command you to apprehend the said                and bring him (*or* her) before me or some other justice of the peace in and for the said Territories in order that inquiry may be made respecting the sanity of the said                and that he (*or* she) may be further dealt with according to law.

Given under my hand and seal this                day of                A.D. 1    , at                in the said Territories.

*A. B.,*
*J.P.* [L.S.]
C. O. 90, Form A.

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## FORM B.

Canada: } To all or any of the constables or
North-West Territories. } other peace officers in the said Territories and to the North-West Mounted Police force at                (*or* the keeper of the common gaol at                ):

Whereas information was laid before me (*or as the case may be*) a justice of the peace in and for the said Territories, on the oath of                , that *A.B.* (*or as in the information*) was insane;

And whereas inquiry has been made by me respecting the sanity of the said

And whereas I have found and adjudged the said                to be insane;

These are therefore to command you the said constables or other peace officers or any of you to take the said                and safely convey                to the North-West Mounted Police (*or* to the keeper of the common gaol) at                and to deliver                to the police aforesaid (*or* to the said keeper) together with this precept; and I do hereby command the said police force (*or* the keeper of the said gaol) to receive the said into custody and safely keep until the pleasure of the Lieutenant Governor be known or until the said shall be discharged by law.

Given under my hand and seal this day of A.D. 1 , at in the North-West Territories.

*A. B.,*
*J.P.* [L.S.]
C. O. 90, Form B.

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## INSPECTION OF STEAM BOILERS.

*See* STEAM BOILERS INSPECTION.

## INSPECTION OF STOCK.

*See* STOCK INSPECTION.

## INSOLVENCY.

*See* ASSIGNMENTS FOR CREDITORS.
CREDITOR'S RELIEF.
PREFERENTIAL ASSIGNMENTS.

## INSURANCE.

*See* FIRE INSURANCE POLICY.
HAIL INSURANCE.
INSURANCE FOR WIFE AND CHILDREN.
MUTUAL FIRE INSURANCE.

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## INSURANCE FOR WIFE AND CHILDREN.

C. O. 1898 c. 49
15 March, 1899

### An Ordinance respecting Insurance for the benefit of Wife and Children.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Interpretation**

**1.** In this Ordinance "maturity of the policy" or "maturity of the contract," means the happening of the event or the expiration of the term at which the benefit under the policy or contract accrues due. C. O. 49, s. 1.

**Husband may insure for benefit of wife or children**

**2.** Any person may insure his life for the whole term thereof or for any definite period for the benefit of his wife and children or of his wife and some one of his children or of his children only or of some one of them and where the insurance is effected for the benefit of more than one he may apportion the amount of the insurance money as he may deem proper. C. O. 49, s. 2.

**May be in name of wife or trustee**

3. The insurance may be effected either in the name of the person whose life is insured or in the name of his wife or of any other person (with the assent of such other person) as trustee. C. O. 49, s. 3.

**Insurance may be declared for benefit of wife or children**

4. In case a policy or written contract of life insurance effected by a man on his life, is expressed upon the face of it to be for the benefit of his wife or his wife and children or any of them or in case he has heretofore indorsed or may hereafter indorse or by any writing identifying the policy by its number or otherwise has made or may hereafter make a declaration that the policy is for the benefit of his wife or of his wife and children or any of them such policy shall enure and be deemed a trust for the benefit of his wife for her separate use and of his children or any of them according to the intent so expressed or declared and so long as any object of the trust remains, the money payable under the policy shall not be subject to the control of the husband or his creditors or form part of his estate when the sum secured by the policy or written contract becomes payable but this shall not be held to interfere with any pledge of the policy to any person prior to such declaration.

**Antenuptial policy**

(2) In the case of a policy or written contract of life insurance effected before marriage a declaration under this section shall be and be deemed to have been as valid and effectual as if such policy or contract had been effected after marriage but nothing herein contained shall affect any action or proceeding now pending. C. O. 49, s. 4.

**Apportionment may be varied**

5. The insured may by an instrument in writing attached to or indorsed on or identifying the policy by its number or otherwise, vary an apportionment previously made so as to extend the benefits of the policy to the wife or the children to one or more of them although the policy is expressed to be for the benefit of the wife alone or the child or children alone or although a prior declaration was so restricted; and he may also apportion the insurance money among the persons intended to be benefited; and may from time to time by an instrument in writing attached to or indorsed on the policy or referring to the same alter the apportionment as he deems proper; he may also by his will make or alter the apportion-

Apportionment by will

ment of the insurance money; and an apportionment made by his will shall prevail over any other made before the date of the will except so far as such other apportionment has been acted on before notice of the apportionment by the will.

(2) This section applies to policies heretofore issued as well as to future policies. C. O. 49, s. 5.

Provision where no apportionment

**6.** Where no apportionment is made all persons entitled to be benefited by the insurance shall be held to share equally in the same; and where it is stated in the policy or declaration that the insurance is for the benefit of the wife and children generally or of the children generally without specifying the names of the children the word children shall be held to mean all the children of the insured living at the maturity of the policy whether by his then or any former wife and the wife to benefit by the policy shall be the wife living at the maturity thereof. C. O. 49, s. 6.

Surrender or assignment of policy

**7.** Any such policy may be surrendered or assigned:

(*a*) Where the policy is for the benefit of children only and the children surviving are of the full age of twenty-one years if the person insured and all such surviving children agree to so surrender or assign; or

(*b*) Where the policy is for the benefit of both a wife and children and the surviving children are all of the full age of twenty-one years if the person insured and his then wife if any and all such surviving children agree to so surrender or assign; or

(*c*) Where the policy is for the benefit of a wife only or of a wife and children and there are no children living of the person insured and his then wife agrees to so surrender or assign. C. O. 49, s. 7.

Apportioned policy

Death of beneficiary before person insured

**8.** Where an apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons in whose favour the apportionment has been made die in the lifetime of the insured the insured may by an instrument in writing attached to or indorsed on or otherwise referring to and identifying the policy of insurance declare that the share formerly apportioned to the person so dying shall be for the benefit of such other person or persons as he may name in that behalf not being other than the wife and children of the insured and in default of any such declaration the share of the person so dying shall be the property of the insured and may be dealt with and disposed of by him as he may see fit and shall at his death form part of his estate. C. O. 49, s. 8.

**9.** Where no apportionment as in sections 2 and 5 hereof provided for has been made if one or more of the persons entitled to the benefit of the insurance die in the lifetime of the insured and no apportionment is subsequently made by the insured the insurance shall be for the benefit of the survivor or of the survivors of such persons in equal shares if more than one; and if all the persons so entitled die in the lifetime of the insured the policy and the insurance money shall form part of the estate of the insured; or after the death of all the persons entitled to such benefit the insured may by an instrument executed as aforesaid make a declaration that the policy shall be for the benefit of his then or any future wife or children or some one of them. C. O. 49, s. 9.

No apportionment Death of beneficiary

**10.** When the insurance money becomes due and payable it shall be paid according to the terms of the policy or of any declaration or instrument as aforesaid as the case may be free from the claims of any creditors of the insured except as herein provided. C. O. 49, s. 10.

Payment of insurance money

**11.** Where the insurance money or part thereof is for the benefit in whole or in part of the children of the insured and the children are mentioned as a class and not by their individual names the money shall not be payable to the children until reasonable proof is furnished to the company of the number, names and ages of the children entitled. C. O. 49, s. 11.

Insurance for children

Proof to be adduced

**12.** The insured may by the policy or by his will or by any writing under his hand appoint a trustee or trustees of the money payable under the policy and may from time to time revoke such appointment in like manner and appoint a new trustee or new trustees and make provision for the appointment of a new trustee or trustees and for the investment of the money payable under the policy. Payment made to such trustee or trustees shall discharge the company. C. O. 49, s. 12.

Appointment of trustees

**13.** If no trustee is named in the policy or appointed as mentioned in section 12 hereof to receive the shares to which infants are entitled their shares may be paid to the executors of the last will and testament of the insured or to a guardian of the infants duly appointed by the supreme court of the North-West Territories or a judge thereof upon the application of the wife or of the infants or their guardian and such payments shall be a good discharge to the insurance company. C. O. 49, s. 13.

Payment where no trustees

Investment by trustees

**14.** Any trustee named as provided for in the last preceding two sections and any executor or guardian may invest the money received in government securities or municipal or school debentures or in mortgages of real estate or in any other manner authorised by the will of the insured and may from time to time alter, vary and transpose the investments and apply all or any part of the annual income arising from the share or presumptive share of each of the children in or towards his or her maintenance and education in such manner as the trustee, executor or guardian thinks fit and may also advance to and for any of the children notwithstanding his or her minority the whole or any part of the share of the child of and in the money for the advancement or preferment in the world or on the marriage of such child. C. O. 49, s. 14.

Security by guardian

**15.** A guardian appointed as provided in section 13 hereof shall give security to the satisfaction of the court or judge for the faithful performance of his duty as guardian and for the proper application of the money which he may receive. Where the amount of the insurance money payable to a guardian of infants does not exceed $400 and probate is sought in respect of a will for the sole purpose of obtaining insurance money to an amount not exceeding $400 the fees payable on the appointment of such guardian or executor shall be $4 and no more and such fees shall be regulated in the manner prescribed. C. O. 49, s. 15.

Payment of insurance money into court where no trustee, etc.

**16.** If there is no trustee, executor or guardian competent to receive the share of any infant in the insurance money and the insurance company admits the claim or any part thereof the company at any time after the expiration of two months from the date of their admission of the claim or part thereof may obtain an order from the supreme court of the North-West Territories or a judge thereof for the payment of the share of the infant into court; and in such case the costs of the application shall be paid out of the share (unless the court or judge otherwise directs) and the residue shall be paid into court pursuant to the order; and such payment shall be a sufficient discharge to the company for the money paid; and the money shall be dealt with as the court or judge may direct.

Order for payment of insurance moneys

(2) If the company does not within four months from the time the claim is admitted either pay the same to some person competent to receive the money under this Ordinance or pay the same into the supreme court the said court or judge thereof may upon application made by some one competent to

receive the said money or by some other person on behalf of the infant order the insurance money or any part thereof to be paid to any trustee, executor or guardian competent to receive the same or to be paid into court to be dealt with as the court or judge may direct and any such payment shall be a good discharge to the company.

Costs

(3) The court or judge may order the costs of the application and any costs incidental to establishing the authority of the party applying for the order to be paid out of such moneys or by the company or otherwise as may seem just and the court or judge may also order the costs of and incidental to obtaining out of court moneys voluntarily paid in by a company to be paid out of such moneys. C. O. 49, s. 16.

Surrender of policy for paid up policy

**17.** If a person who has heretofore effected or who hereafter effects an insurance for the purposes contemplated by this Ordinance whether the purpose appears by the terms of the policy or by indorsement thereon or by an instrument referring to and identifying the policy finds himself unable to continue to meet the premiums he may surrender the policy to the company and accept in lieu thereof a paid up policy for such sum as the premiums paid would represent payable at death or at the endowment age or otherwise (as the case may be) in the same manner as the money insured by the original policy if not surrendered, would have been payable; and the company may accept the surrender and grant the paid up policy notwithstanding any declaration or direction in favour of the wife and children or any of them. C. O. 49, s. 17.

Borrowing for payment of premiums

**18.** The person insured may from time to time borrow from the company insuring or from any other company or person on the security of the policy such sums as may be necessary and the same shall be applied to keep the policy in force on such terms and conditions as may be agreed on; and the sums so borrowed together with such lawful interest thereon as may be agreed upon shall so long as the policy remains in force be a first lien on the policy and on all moneys payable thereunder notwithstanding any declaration or direction in favour of the wife or children or any or either of them. C. O. 49, s. 18.

Bonuses and profits

**19.** Any person insured under the provisions of this Ordinance may in writing require the insurance company to pay the bonuses or profits accruing under the policy or portions of the same to the insured; or to apply the same in reduction of the annual premiums payable by the insured in such way as he may direct; or to add the said bonuses or profits to the policy; and the company shall pay or apply such bonuses or profits as the insured directs and according to the rates and rules established by the company:

Provided always that the company shall not be obliged to pay or apply such bonuses or profits in any other manner than stipulated in the policy or the application therefor. C. O. 49, s. 19.

Several actions consolidation

Parties

**20.** In case of several actions being brought for insurance money the court is to consolidate or otherwise deal therewith so that there shall be but one action for and in respect of the shares of all the persons entitled under a policy. If an action is brought for the share of one or more infants entitled all the other infants or the trustees, executors or guardians entitled to receive payment of the shares of such other infants shall be made parties to the action and the rights of all the infants shall be dealt with and determined in one action. The persons entitled to receive the shares of the infants may join with any adult persons claiming shares in the policy. In all actions where several persons are interested in the money the court or judge shall apportion among the parties entitled any sum directed to be paid and shall give all necessary directions and relief. C. O. 49, s. 20.

Notice to insurance company

**21.** No declaration or appointment affecting the insurance money or any portion thereof nor any appointment or revocation of a trustee shall be of any force or effect as respects the company until the instrument or a duplicate or copy thereof is deposited with the company. Where a declaration or indorsement has been heretofore made and notice has not been given the company may until they receive notice thereof deal with the insured or his executors, administrators or assigns in respect of the policy in the same manner and with the like effect as if the declaration or indorsation had not been made. C. O. 49, s. 21.

Rights of creditors

**22.** If the policy was effected and premiums paid by the insured with intent to defraud his creditors the creditors shall be entitled to receive out of the sum secured an amount equal to the premiums so paid. C. O. 49, s. 22.

No interference with other modes of assignment, etc.

**23.** Nothing contained in this Ordinance shall be held or construed to restrict or interfere with the right of any person to effect or assign a policy for the benefit of his or her father, mother, husband or wife or children or some one of them in any other mode allowed by law. C. O. 49, s. 23.

**24.** Where all the parties entitled to be benefited whether by original insurance, by written declaration or instrument of variation or apportionment under any policy are of full age they and the person insured may surrender the policy or assign the same either absolutely or by way of security. C. O. 49, s. 24. Assignment of policy

**25.** Where any policy of insurance or written conrtact of life insurance or the declaration indorsed upon or attached to any policy of insurance to which this Ordinance applies whether such declaration has heretofore been or shall hereafter be made provides that the policy shall be for the benefit of a person and in the event of the death of such person for the benefit of another person such first mentioned person shall if living be deemed for the purposes of section 24 of this Ordinance the person entitled to be benefited under such policy. C. O. 49, s. 25. Persons entitled in succession

## INTEREST.

*See* DISTRESS FOR RENT.

Repealed c. 14-1905

## INTERPRETATION.

### An Ordinance respecting the Form and Interpretation of Ordinances.

C. O. 1898 c. 1
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

**1.** This Ordinance may be cited as *"The Interpretation Ordinance."* C. O. 1, s. 1. Short title

THE CONSOLIDATED ORDINANCES—CITATION.

**2.** This Ordinance and following series of Ordinances shall constitute and may be cited for all purposes as *"The Consolidated Ordinances of the Territories 1898,"* and any chapter of the said consolidated Ordinances may be cited and referred to for all purposes whatever either by its title as an Ordinance or by its short title or by using the expression *"The Ordinance* (or *The Consolidated Ordinance*) *respecting* ———" (adding the remainder of the title given at the beginning of the particular chapter) or by using the expression *"The Consoli-* What constitute consolidated Ordinances Citation *dated Ordinances*" or "*The Consolidated Ordinances of the Territories*" together with a reference to the number of the particular chapter in the copies printed by authority. C. O. 1, s. 2.

APPLICATION.

Application of this Ordinance

**3.** This Ordinance and every provision thereof shall extend and apply to every Ordinance of the Territories now or hereafter passed except in so far as the provision is inconsistent with the intent and object of such Ordinance or the interpretation which such provision would give to any word, expression or clause is inconsistent with the context and except in so far as any provision hereof is in any such Ordinance declared not applicable thereto; and the omission in any Ordinance of a declaration that *The Interpretation Ordinance* applies thereto shall not be construed to prevent it so applying although such express declaration is inserted in some other Ordinance or Ordinances of the same session. C. O. 1, s. 3.

FORM OF ENACTING.

Form of enacting clause

**4.** The following words may be inserted in the preambles of Ordinances and shall indicate the authority by virtue of which they are passed: "The Lieutenant Governor by and "with the advice and consent of the Legislative Assembly of "the Territories enacts as follows." C. O. 1, s. 4.

Preamble and operative part of Ordinances

**5.** After the insertion of the words aforesaid, which shall follow the setting forth (if any) of the considerations or reasons upon which the law is grounded and which shall with these considerations or reasons constitute the entire preamble, the various clauses of the Ordinance shall follow in a concise and enunciative form. C. O. 1, s. 5.

TIME OF COMMENCEMENT OF ORDINANCES.

Indorsement of assent

**6.** The clerk of the Legislative Assembly shall indorse on every Ordinance of the Territories immediately after the title of such Ordinance, the day, month and year when the same was by the Lieutenant Governor assented to or reserved by him for the assent of the Governor General; and in the latter case such clerk shall also indorse thereon the day, month and year when the Lieutenant Governor has signified (either by speech or message to the Legislative Assembly or by proclamation) that the same was laid before the Governor General and that the Governor General was pleased to assent to the same; and such indorsement shall be taken to be a part of such Ordinance; and the date of such assent or signification (as the case may be) shall be the date of the commencement of the Ordinance if no later commencement is therein provided. C. O. 1, s. 6.

### AMENDMENT OR REPEAL.

Amendment of law in same session

7. Any Ordinance of the Territories may be amended, altered or repealed by any Ordinance passed in the same session. C. O. 1, s. 7.

### INTERPRETATION.

Interpretation

8. In every Ordinance unless the context otherwise requires:

Law always speaking

1. The law shall be considered as always speaking; and whenever any matter or thing is expressed in the present tense the same shall be applied to the circumstances as they arise so that effect may be given to each Ordinance and every part thereof according to its spirit, true intent and meaning;

"Shall" "May"

2. The expression "shall" shall be construed as imperative, and the expression "may" as permissive;

"Herein"

3. Whenever the expression "herein" is used in any section of an Ordinance it shall be understood to relate to the whole Ordinance and not to that section only

The Sovereign

4. The expression "her Majesty," "the Queen," or "the Crown," means her Majesty, her heirs and successors, sovereigns of the United Kingdom of Great Britain and Ireland;

"Lieutenant Governor"

5. The expression "Lieutenant Governor" means the Lieutenant Governor for the time being or other chief executive officer or administrator for the time being carrying on the government of the Territories by whatever title he is designated;

"Lieutenant Governor in Council"

6. The expression "Lieutenant Governor in Council" means the Lieutenant Governor or person administering the government of the Territories for the time being acting by and with the advice of or by and with the advice and consent of or in conjunction with the Executive Council of the said Territories;

"Government"

7. The expression "government," "government of the Territories" or "North-West Government" used in any Ordinance whenever enacted means her Majesty the Queen acting for the Territories;

"United Kingdom"

8. The expression "the United Kingdom" means the United Kingdom of Great Britain and Ireland;

"United States"

9. The expression "the United States" means the United States of America;

"Territories"

10. The expression "Territories" means the North-West Territories as defined by *The North-West Territories Act* excepting that portion of the said Territories declared by *The Yukon Territory Act* to constitute the Yukon Territory;

Name of country, place, officer. etc.

11. The name commonly applied to any country, place, body, corporation, society, officer, functionary, person, party or thing means such country, place, body, corporation, society, officer, functionary, person, party or thing, although such name is not the formal and extended designation thereof;

"Proclamation"

12. The expression "proclamation" means a proclamation under the seal of the Territories;

Acts by proclamation

13. When the Lieutenant Governor is authorised to do any act by proclamation such proclamation is to be understood to be a proclamation issued under an order of the Lieutenant Governor in Council but it shall not be necessary that it be mentioned in the proclamation that it is issued under such order;

Number and gender

14. Words importing the singular number or the masculine gender only include more persons, parties or things of the same kind than one and females as well as males and the converse;

"Person"

15. The expression "person" includes any body corporate and politic or party and the heirs, executors, administrators or other legal representatives of such person to whom the context can apply according to law;

"Writing"

16. The expression "writing," "written" or any term of like import includes words printed, painted, engraved, lithographed or otherwise traced or copied;

"Now" "Next"

17. The expression "now" or "next" shall be construed as having reference to the time when the Ordinance was assented to;

"Month" "Year"

18. The expression "month" means a calendar month; and the expression "year" means a calendar year; and the number of any year (unless the contrary is indicated) means "the year of our Lord" without the mention of "the year of our Lord";

"Holiday"

19. The expression "holiday" includes Sunday, New Year's day, Ash Wednesday, Good Friday, Easter Monday, the second Friday in May to be known as Arbour day, *the twenty-fourth day of May or when such day falls on a Sunday the twenty-fifth day of May to be known as Victoria day*, Christmas day, the birthday or the day fixed by proclamation for the celebration of the birthday of the reigning Sovereign, Domin-

Repealed

ion day, Labour day and such day as may in each year be proclaimed a public holiday for the planting of forest and other trees and any other day appointed by proclamation for a general fast or thanksgiving;

**"Gazette"** 20. The term "gazette" or "official gazette" whenever enacted means *The North-West Territories Gazette* published by the Queen's printer under the authority of the Lieutenant Governor in Council;

**Time expiring on holiday** 21. If the time limited by any Ordinance for any proceeding or the doing of anything under its provisions expires or falls upon a holiday, the time so limited shall be extended to and such thing may be done on the day next following which is not a holiday;

**Standard time** 22. The time used upon the Canadian Pacific railway and known as "mountain standard time" (being the local time at the one hundred and fifth meridian of longitude) is hereby declared to be the standard time of the Territories; and when any Ordinance refers to any particular time of day such standard time shall be considered to be meant;

**"Felony"** 23. The expression "felony" shall mean any crime which before the passing of *The Criminal Code* 1892 would have been a felony under the law of Canada; and "misdemeanour" shall mean any crime or offence which before the passing of the said Code would have been a misdemeanour under the said law;

**"Oath"** 24. The expression "oath" includes a solemn affirmation or declaration whenever the context applies to any person and case by whom and in which a solemn affirmation or declaration may be made instead of an oath; and in like cases the expression "sworn" includes the expression "affirmed" or "declared"; **"Sworn"**

**Officers to take oaths** 25. Whenever (by any Ordinance or by any order, regulation or commission made or issued by the Lieutenant Governor or Lieutenant Governor in Council under any law authorising him to require the taking of evidence under oath) an oath is authorised or directed to be made, taken or administered, such oath may be administered and a certificate of its having been made, taken or administered may be given by any one named in any such Ordinance, order, regulation or commission, or by a judge of any court, a notary public, a justice of the peace or a commissioner for taking affidavits having authority or jurisdiction within the place where the oath is administered;

**"Sureties" "Security"** 26. The expression "sureties" means sufficient sureties and the expression "security" means sufficient security; and whenever these words are used one person shall be sufficient therefor unless otherwise expressly required;

"Magistrate"

27. The expression "magistrate" means justice of the peace;

"Justice"

28. The expression "justice" means a justice of the peace and includes two or more justices if two or more justices act or have jurisdiction and also any person having the power or authority of two or more justices of the peace;

Official jurisdiction

29. If anything is directed to be done by or before a magistrate or a justice of the peace or other public functionary or officer, it shall be done by or before one whose jurisdiction or powers extend to the place where such thing is to be done;

Implied powers

30. Whenever power is given to any person, officer or functionary to do or to enforce the doing of any act or thing, all such powers shall be understood to be also given as are necessary to enable such person, officer or functionary to do or enforce the doing of such act or thing;

Imprisonment

31. If in any Ordinance any person is directed to be imprisoned or committed to prison, such imprisonment or committal shall (if no other place is mentioned or provided by law) be in or to the common gaol of the locality in which the order for such imprisonment is made or if there is no common gaol there then in or to that common gaol which is nearest to such locality; and the keeper of any such common gaol shall receive such person and safely keep and detain him in such common gaol under his custody until discharged in due course of law or bailed in cases in which bail may by law be taken;

Public expenditure

32. If any sum of the public money be by any Ordinance appropriated for any purpose or directed to be paid by the Lieutenant Governor, the Lieutenant Governor in Council or the North-West government, then (if no other provision be made respecting it) such sum shall be payable under warrant of the Lieutenant Governor directed to the treasurer of the Territories out of the general revenue fund of the Territories; and all persons entrusted with the expenditure of any such sum or any part thereof shall account for the same in such manner and form with such vouchers at such periods and to such officers as the Lieutenant Governor may direct;

Appointment, removal, etc., of officials

33. Words authorising the appointment of any public officer or functionary or any deputy include the power of removing or suspending him, reappointing or reinstating him or appointing another in his stead in the discretion of the authority in whom the power of appointment is vested;

Successors and deputies of officials

34. Words directing or empowering any public officer or functionary to do any act or thing or otherwise applying to him by his name of office include his successors in such office and his or their lawful deputy;

Minister of Crown

35. Words directing or empowering a minister of the Crown to do any act or thing or otherwise applying to him by his name of office include a minister acting for or (if the office is vacant) in the place of such minister under the authority of *The Territories Public Service Ordinance* or an Order in Council and also his successors in such office and his or their lawful deputy;

Officers retained during pleasure

36. All officers now appointed or hereafter appointed under the authority of an Ordinance (whether by commission or otherwise) shall remain in office during pleasure only unless otherwise authorised by law;

When majority may act

37. When any act or thing is required to be done by more than two persons a majority of them may do it;

Effect of incorporation

38. Words making any association or number of persons a corporation or body politic and corporate shall vest in such corporation power to sue and be sued, contract and be contracted with by their corporate name; to have a common seal and to alter or change the same at their pleasure; and to have perpetual succession; and power to acquire and hold personal property or movables for the purposes for which the corporation is constituted and to alienate the same at pleasure; and shall also vest in any majority of the members of the corporation the power to bind the others by their acts; and shall exempt the individual members of the corporation from personal liability for its debts or obligations or acts provided they do not violate the provisions of the Ordinance incorporating them;

Forms

39. Whenever forms are prescribed slight deviations therefrom not affecting the substance or calculated to mislead shall not vitiate them;

Repeal of bylaws, etc.

40. Whenever power to make bylaws, regulations, rules or orders is conferred it shall include the power from time to time to alter or revoke the same and make others;

Private Ordinances

41. No provision or enactment in any Ordinance which is of the nature of a private Ordinance shall affect the rights of any person or of any body politic, corporate or collegiate, such only excepted as are therein mentioned or referred to;

Power of repeal reserve

42. Every Ordinance shall be so construed as to reserve to the Legislative Assembly the power of repealing or amending it and of revoking, restricting or modifying any power, privilege or advantage thereby vested in or granted to any person or party whenever such repeal, amendment, revocation, restriction or modification is deemed by the Legislative Assembly to be required for the public good;

Effect of repeal limited

43. The repeal of any Ordinance or part of an Ordinance shall not revive any Ordinance or provision of law repealed by such Ordinance or part of an Ordinance or prevent the effect of any saving clause therein;

Repeal no declaration as to law previously

44. The repeal or amendment of any Ordinance shall not be deemed to be or to involve any declaration whatsoever as to the previous state of the law;

Repeal Continuation of previous officers, etc.

45. Whenever any Ordinance is repealed (wholly or in part) and other provisions are substituted and whenever any regulation is revoked and other provisions substituted all officers, persons, bodies politic or corporate acting under the old law or regulation shall continue to act as if appointed under the new law or regulation until others are appointed in their stead; and all proceedings taken under the old law or regulation shall be taken up and continued under the new law or regulation when not inconsistent therewith; and all penalties and forfeitures may be recovered and all proceedings had in relation to matters which have happened before the repeal or revocation in the same manner as if the law or regulation was still in force, pursuing the new provisions as far as they can be adapted to the old law or regulation;

Repeal Bylaws, etc., continued

46. Whenever any Ordinance is repealed (wholly or in part) and other provisions are substituted all bylaws, orders, regulations and rules made under the repealed Ordinance shall continue good and valid in so far as they are not inconsistent with the substituted Ordinance, enactment or provision until they are annulled or others made in their stead;

Repeal Reference to old law

47. Whenever any Ordinance or part of an Ordinance is repealed and other provisions are substituted by way of amendment, revision or consolidation, any reference in any unrepealed Ordinance (or in any rule, order or regulation made thereunder) to such repealed Ordinance or enactment shall as regards any subsequent transaction, matter or thing be held and construed to be a reference to the provisions of the substituted Ordinance or enactment relating to the same subject matter as such repealed Ordinance or enactment:

Provided always that where there is no provision in the substituted Ordinance or enactment relating to the same subject matter, the repealed Ordinance or enactment shall stand good and be read and construed as unrepealed in so far (but in so far only) as is necessary to support, maintain or give effect to such unrepealed Ordinance or such rule, order or regulation made thereunder;

Repeal Existing rights reserved

48. The repeal of an Ordinance or the revocation of a regulation at any time shall not affect any act done or any right or

right of action existing, accruing, accrued or established or any proceedings commenced in a civil cause before the time when such repeal or revocation takes effect but the proceedings in such case shall be conformable when necessary to the repealing Ordinance or regulation; *but where there is no provision in the repealing Ordinance or regulation relating to the same subject matter the repealed Ordinance or regulation shall stand good and be read and construed as unrepealed in so far (but in so far only) as is necessary to support, maintain or give effect to such right or right of action and the enforcement thereof;*

**Enforcement of Ordinances**

49. Unless otherwise therein specially provided, proceedings for the imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinance or municipal bylaw may be brought summarily before a justice of the peace under the provisions of part LVIII of *The Criminal Code* 1892; and the words "on summary conviction" whenever they occur in any Ordinance shall refer to and mean under and by virtue of part LVIII aforesaid;

**Application of fines, etc.**

50. Any duty, penalty, fine or sum of money or the proceeds of any forfeiture under any law of the Territories shall (if no other provision be made respecting it) belong to the Crown for the public uses of the Territories and form part of the general revenue fund of the Territories;

**Recovery of penalties in unprovided cases**

51. Where a pecuniary penalty or a forfeiture is imposed for the contravention of any Ordinance then (if the provisions of part LVIII aforesaid are not applicable to the case and if no other mode is prescribed for the recovery of such penalty or forfeiture or if the mode prescribed is not applicable to the case) the penalty or forfeiture shall be recoverable with costs by civil action or proceeding at the suit of the attorney general or of a private party suing as well for the Crown as himself in the supreme court in any judicial district of the Territories if no other provision is made for the appropriation of the penalty or forfeiture one-half thereof shall belong to the Government of the Territories and the other half shall belong to the private plaintiff if any there be and if there be none the whole shall belong to the Crown;

**Repeal Penalties and forfeitures not affected**

52. No offence committed and no penalty or forfeiture incurred and no proceeding pending under any Ordinance at any time repealed or under any regulation at any time revoked shall be affected by the repeal or revocation, except that the proceeding shall be conformable when necessary to the repealing Ordinance or regulation; and whenever any

penalty, forfeiture or punishment is mitigated by any of the provisions of the repealing Ordinance or regulation, such provisions shall be extended and applied to any judgment to be pronounced after such repeal or revocation;

Ordinances public

Judicial notice

53. Every Ordinance shall (unless by express provision it is declared to be a private Ordinance) be deemed to be a public Ordinance and shall be judicially noticed by all judges, justices of the peace and others;

Printed copies of Ordinances

54. Every copy of any Ordinance (public or private) printed by authority of law shall be evidence of such Ordinance and of its contents; and every copy purporting to be so printed shall be deemed to be so printed unless the contrary is shown;

Evidence of Orders in Council

55. A copy of any regulation or order of the Lieutenant Governor in Council printed by the Queen's printer or a written copy thereof attested by the signature of the clerk of the Executive Council shall be evidence of such regulation or order; and any order in writing signed by the member of the Executive Council fulfilling the duties of the Territorial secretary and purporting to be written by command of the Lieutenant Governor shall be received in evidence as the Order of the Lieutenant Governor;

Construction of Ordinances

56. The preamble of every Ordinance shall be deemed a part thereof intended to assist in explaining the purport and object of the Ordinance; and every Ordinance and every provision or enactment thereof shall be deemed remedial (whether its immediate purport is to direct the doing of any thing which the Legislative Assembly deems to be for the public good or to prevent or punish the doing of any thing which it deems contrary to the public good) and shall accordingly receive such fair, large and liberal construction and interpretation as will best insure the attainment of the object of the Ordinance and of such provision or enactment according to its true intent, meaning and spirit;

Reference to sections

57. Where reference is made in any Ordinance by number to two or more sections, subsections, clauses or paragraphs of any Ordinance or Statute, the number first mentioned and the number last mentioned shall both be deemed to be included in the reference;

58. Reference by number to any section, subsection, paragraph, clause or line of any other Ordinance shall be deemed to be a reference to such section, subsection, paragraph, clause or line of such other Ordinance as printed by authority of law;

Proceedings under Ordinance preliminary to coming into force

59. Where an Ordinance is not to come into operation immediately on the passing thereof and confers power to hold any

election, to make any appointment, to make, grant or issue any instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or bylaws, to give notices, to prescribe forms or to do any other thing for the purposes of the Ordinance, that power may (unless the contrary intention appears) be exercised at any time after the passing of the Ordinance so far as may be necessary or expedient for the purpose of bringing the Ordinance into operation at the date of the commencement thereof, subject to this restriction that any such instrument, Order in Council, order, warrant, scheme, letters patent, rules, regulations or bylaws shall not (unless a contrary intention appears in the Ordinance or the contrary is necessary for bringing the Ordinance into operation) come into operation until the Ordinance comes into operation;

General rules of construction

60. Nothing in this section shall exclude the application to any Ordinance of any rule of construction applicable thereto and not inconsistent with this section. C. O. 1, s. 8; 1901, c 2, s. 1; 1903, Sess. 1, c. 3, s. 1.

### CUSTODY OF ORDINANCES.

Ordinances to be of record

**9.** All Ordinances heretofore passed, now passed and hereafter to be passed shall be and continue to remain of record in the custody of the clerk of the Legislative Assembly. C. O. 1, s. 9.

### CERTIFIED COPIES OF ORDINANCES.

Authentication of copies

**10.** The clerk of the Legislative Assembly shall affix the seal of the Territories to certified copies of all Ordinances intended for transmission to the secretary of state or required to be produced before courts of justice and in any other case which the Lieutenant Governor in Council may direct; and such copies so certified shall be held to be duplicate originals and also to be evidence (as if printed by lawful authority) of such Ordinances and of their contents. C. O. 1, s. 10.

Certified copies

**11.** The clerk of the Legislative Assembly shall furnish a certified copy of any Ordinance to any person applying for the same upon receiving from such person such fee (not exceeding ten cents for every hundred words) as the Lieutenant Governor in Council may from time to time direct. C. O. 1, s. 11; 1899, c. 2, s. 7.

Certificate

**12.** The clerk of the Legislative Assembly shall insert at the foot of every such copy so required to be certified a written certificate duly signed and authenticated by him to the effect that it is a true copy; and in case of any Ordinance disallowed after it came into force, "but disallowed by the Governor General in Council, which disallowance took effect on the day of A.D. 1 ." C. O. 1, s. 12.

Disallowance

### CONSTRUCTION OF THIS ORDINANCE.

Interpretation hereof

**13.** The provisions of this Ordinance shall apply to the construction thereof and to the words and expressions used therein. C. O. 1, s. 13.

# INTOXICATING LIQUORS.

*See* LIQUOR LICENCE.

# INVESTIGATION OF ACCIDENTS BY FIRE.

C O.1898, c. 36 15 March, 1899

## An Ordinance respecting the Investigation of Accidents by Fire.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Magistrate empowered to inquire into cause of fires

**1.** Any justice of the peace may subject to the provisions hereinafter contained institute an inquiry into the cause or origin of any fire and whether it was kindled by design or was the result of negligence or accident and act according to the result of such inquiry. C. O. 36, s. 1.

No inquiry to be held except on reasonable suspicion

**2.** No justice of the peace shall institute an inquiry into the cause or origin of any such fire until a sworn statement in writing has been made before him that there is reasonable suspicion that such fire was the result of culpable or negligent conduct or design or occurred under such circumstances as in the interests of justice and for the due protection of property require an investigation nor until such statement having been received by him he has reported the same to the attorney general and received from the attorney general authority to make such inquiry. C. O. 36, s. 2.

Examination of witnesses

**3.** For the purpose of any inquiry under this Ordinance such justice of the peace shall summon and bring before him all persons whom he deems capable of giving information or evidence touching or concerning such fire and shall examine such persons on oath and shall reduce their examinations to writing and return the same to the attorney general. C. O. 36, s. 3.

Penalty for not attending as witness

**4.** If any person having been duly summoned as a witness to give evidence upon any such inquiry does not after being openly called three times appear and give evidence at such inquiry the justice of the peace shall be empowered to impose upon the person so making default such fine as he thinks fit not exceeding $10; and such justice of the peace shall make out and sign a certificate containing the name, residence, trade or calling of such person together with the amount of the fine imposed and the cause of such fine and shall cause a copy of such certificate to be served on the person so fined personally or by leaving it at his residence within seven days after holding such inquiry and if the same is not paid within the space of seven days after such certficate has been served as aforesaid a warrant of distress shall be issued by the justice of the peace to be levied on the goods and chattels of such offender and in default of such distress or if such distress shall prove insufficient such justice of the peace may commit the offender to prison for any term not exceeding twenty-one days. C. O. 36, s. 4.

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# IRRIGATION DISTRICTS.

*Principal Ordinance* .... .... .... *C.O. 1898, c. 24.*

*Amending Ordinance* .... .... .... *1901, c. 20.*

**C.O. 1898, c. 74**
**15 March, 1899**

## An Ordinance respecting Irrigation Districts.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Irrigation District Ordinance."* C. O. 74, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Act"

1. The expression "Act" means the Act of the Parliament of Canada known as *The North-West Irrigation Act 1898* and shall include any amendments thereto which may hereafter be passed;

Proceedings at meeting

**8.** At the hour appointed in the notice calling such meeting which shall not be later than ten o'clock in the forenoon the returning officer shall read to the meeting the petition for the erection of the district or a copy thereof and his appointment as returning officer after which and until noon of the same day he shall take the votes of the voters present on the question of the erection of the district.

(2) Every voter shall sign a declaration as in form B in the schedule hereto and record his vote as provided in such form.

(3) The returning officer may vote * * * C. O. 74, s. 8 and 1899, c. 18, s. 1.

## ELECTION OF TRUSTEES.

Nomination of trustees

**9.** *If two-thirds of the voters voting vote* in favour of the erection of the district the returning officer shall proceed to hold an election of three trustees for the district and at one o'clock of the afternoon of the same day the returning officer shall proceed to receive nominations of candidates for election as trustees. C. O. 74, s. 9 and 1899, c. 18, s. 2.

Who may nominate

**10.** Voters and no other persons shall be entitled to nominate candidates.

Qualification of trustees

(2) Trustees shall be owners resident in the district and qualified as voters.

(3) Nominations may be made during the first hour of the election meeting.

Proceedings on election of trustees

(4) If no more than the requisite number of persons are nominated during the period for nominations the returning officer shall declare them elected.

(5) If more than the requisite number of persons are nominated during such period the returning officer shall at the expiration thereof declare the nominations closed and shall proceed to take a vote by open voting.

Qualification of voters

(6) The persons entitled to vote at such election shall be the owners of the full age of twenty-one years.

(7) Every voter shall have as many votes as there are trustees to be elected but shall in no case vote more than once for one candidate at the same election.

(8) If rquired to do so by any owner present or of his own accord if deemed advisable the returning officer shall administer an oath to any person applying to vote on the

question of the erection of the district or the election of trustees for the district as to his qualification to vote, which oath shall be as follows:

"You do swear that you are of the full age of twenty-one years and that you are lawfully in possession or entitled to be in possession of land situate within this irrigation district and that you have not received any reward or offer or promise of reward for voting at this election. So help you God."

(9) The returning officer shall truly record in a poll book containing suitable columns the name and residence of each person applying to vote, the land in respect of which he claims to be entitled to vote and unless he declines to take the oath the person or persons for whom he votes and if such person when required takes or declines to take the oath the returning officer shall record such fact in the poll book.

(10) The poll book shall continue open until and be closed at the hour of five o'clock in the afternoon of the day of voting.

(11) At the close of the poll the returning officer shall sum up the votes polled and declare elected the necessary number of candidates having the highest number of votes.

(12) The returning officer may vote and in case of an equality of votes for any candidates the returning officer shall have a casting vote.

Return to commissioner

(13) Immediately after the election the returning officer shall transmit to the commissioner a statement of the result of the votes taken by him together with a solemn declaration in form C in the schedule hereto.

(14) The returning officer shall after he has forwarded his statement to the commissioner hand the poll book to the secretary treasurer of the district.

Subsequent elections

(15) At subsequent elections the secretary treasurer of the district shall, unless the commissioner appoints another person, be the returning officer and the provisions of this section shall apply and be observed at all elections of trustees.

(16) In case for any reason at any time trustees are not elected or are not duly elected hereunder the commissioner may appoint trustees who shall hold office in all respects as if duly elected.

Charge of irregularity, etc. at election

(17) If any two owners who were entitled to vote at the election make it appear to the commissioner by their solemn declaration that the election was irregularly or improperly conducted or that corrupt practices prevailed thereat and that by reason thereof the result of the election was affected the

commissioner may make or appoint some other person to make inquiries into the matter and cause evidence to be taken under oath or by solemn declaration and by order require the attendance of witnesses or production of documents and may make such order as to the said election and as to the persons entitled to hold the office of trustee as may seem proper and the trustees and officers of the district shall be bound by and shall observe such orders and the nonobservance of any order made under this section shall be an offence and the offender shall on summary conviction thereof be liable to a penalty not exceeding $100. C. O. 74, s. 10.

Erection of district

**11.** If the statement made by the returning officer to the commissioner under subsection (13) of section 10 hereof shows that the *necessary proportion* of the voters were in favour of the erection of the district the commissioner may by order erect the tract of land described in the petition into an irrigation district under the provisions of this Ordinance.

(2) The Order erecting such irrigation district shall set forth:

(*a*) The name in full, situation and limits thereof;

(*b*) The date and place at which the meeting of owners and the election of trustees was held;

(*c*) The names of the elected trustees and their post office addresses.

(3) Such order shall be published in the next issue of *The North-West Territories Gazette.* C. O. 74, s. 11 and 1899, c. 18, s. 3.

### TRUSTEES DECLARATION OF OFFICE.

Declaration by trustees

**12.** Every trustee shall within eight days after his election make the following declaration before the returning officer who shall forward the same to the commissioner:

"I, *A.B.,* do hereby accept the office of trustee to which I have been elected in (*name of irrigation district in full*) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee during the term for which I have been elected." C. O. 74, s. 12.

### TRUSTEES' TERM OF OFFICE.

Term of office of trustee

**13.** The trustees elected at the first election shall hold office as follows:

1. The candidate receiving the highest number of votes or the first one nominated if no vote has been taken shall be

elected to serve until and including the thirty-first day of December of the second year following the election;

2. The candidate receiving the second highest number of votes or second in order of nomination shall be elected to serve until and including the thirty-first day of December of the year following the election;

3. The candidate receiving the third highest number of votes or the third in order of nomination shall be elected to serve until and including the thirty-first day of December following the election:

Provided always that when the election takes place between the thirtieth day of June and the thirty-first day of December following in any year the third trustee shall continue in office until and including the thirty-first day of December the year following the election; the second trustee shall continue in office until and including the thirty-first day of December of the second year following the election; and the first trustee shall continue in office until and including the thirty-first day of December of the third year following the election:

Providing also that the retiring trustee shall remain in office until his successor is elected. C. O. 74, s. 13.

### ANNUAL ELECTION OF TRUSTEE.

Annual election of trustee

14. The regular annual election of a trustee to fill the vacancy which occurs yearly shall take place on a day in the first week in January at the hour of ten o'clock in the forenoon and in the event of more candidates being nominated at twelve o'clock noon than the number required to fill vacancies then existing in the board the nominations shall be closed and a poll shall be opened at that hour and shall close at five o'clock in the afternoon of the same day and the proceedings at such annual election shall as nearly as possible be the same as at the first election of trustees. C. O. 74, s. 14.

### TRUSTEES A BODY CORPORATE.

Board of trustees

15. The board of trustees of every district created hereunder shall be a body corporate and shall have all the rights and be subject to all the liabilities of a corporation; and especially shall have full power to acquire, hold and alienate water rights and both real and personal estate for all purposes of the district and by the same name they and their successors shall have perpetual succession and they shall have power to sue and be sued, implead and be impleaded, answer and be answered unto in all courts and in all actions, causes and suits

at law and in equity whatsoever and they shall have a common seal with power to alter and modify the same at their will and pleasure and they shall be in law capable of receiving by donation, acquiring, holding, disposing of and conveying any property real or moveable for the use of the said district and of becoming parties to any agreements in the management of the affairs of the said district and shall have all the powers necessary for the construction, working and maintenance of irrigation works necessary for the uses and purposes of the said district and the inhabitants thereof. C. O. 74, s. 15.

### CHAIRMAN AND SECRETARY TREASURER.

**Election of officers**

**16.** The board shall within ten days after the date of their election hold a meeting at which they shall proceed to elect a chairman who shall preside at all meetings of the board and at the same meeting the board shall appoint a secretary treasurer. C. O. 74, s. 16.

### MEETINGS OF TRUSTEES.

**Chairman may vote**
**Equality of votes**

**17.** The chairman of any meeting of the board may vote with the other members of the board on all questions and any question on which there is an equality of votes shall be deemed to be negatived. C. O. 74, s. 17.

**Chairman *pro tem.***

**18.** In the event of the absence of the chairman from any meeting the remaining members of the board shall elect another chairman from amongst themselves who shall have all the powers of the chairman at such meeting. C. O. 74, s. 18.

**Meetings of board**

**19.** Meetings of the board of trustees may be called at any time by the chairman or by two trustees by giving seven clear days written notice of the same. C. O. 74, s. 19.

### REGULATIONS AND BYLAWS.

**Regulations and bylaws**

**20.** Every board may make regulations and bylaws in respect of matters not provided for by this Ordinance and not contrary to law, consistent with the objects for which the district was created, for governing its proceedings, calling meetings, the conduct of its members, appointing committees and generally such regulations as the interest of the district may require and, may repeal, alter and amend its own regulations and bylaws except where bylaws are made for the purpose of raising money, levying assessments or striking rates. C. O. 74, s. 20.

**21.** Every board may pass a bylaw for paying the members thereof but such payment shall in no case exceed the sum of two dollars per day to each member and ten cents for every mile necessarily travelled in going to and from the meetings of the board. C. O. 74, s. 21.

Payment of members

**22.** The board of trustees shall define the duties of its officers and shall exact security from the secretary treasurer for the faithful performance of his duties and it shall be the duty of every board at its first meeting in each year or within a reasonable time thereafter to examine the security so exacted and see that the same is a valid security. C. O. 74, s. 22.

Officers duties and secretary treasurer's security

## AUTHORITY FOR CONSTRUCTION OF WORKS.

**23.** The board shall forthwith after the erection of such district under the provisions hereof proceed to make an application in accordance with the provisions of the Act for the water necessary for the irrigation of the district and for authority to construct the necessary works for the utilisation of such water and may employ such surveyors or engineers as are required to obtain the necessary information to enable them to make such application.

Application for authorisation

(2) *The commissioner may at any time authorise the discontinuance of any works theretofore authorised.* C. O. 74, s. 23 and 1903, Sess. 2, c. 25, s. 1.

**24.** If the authorisation to construct such works as provided by section 16 of the Act be not obtained within six months after the date of the order creating the district or such further time as the Lieutenant Governor in Council may direct, the district shall cease to exist as such. C. O. 74, s. 24.

If authorisation not obtained within six months

**25.** If the authorisation provided for by section 16 of the Act is issued such authorisation together with a copy of the maps and plans required by the Act shall be filed in the office of the secretary treasurer of the board and shall be open for inspection by any owner or his agent at all reasonable times. C. O. 74, s. 25.

Authorisation to be filed

## ENGINEER OF DISTRICT.

**26.** Immediately upon receipt of the authorisation provided by section 16 of the Act the board shall proceed to appoint a competent engineer for the district whose duty it shall be to make the necessary detailed surveys for the proposed works together with the maps and plans of the same and he

Engineer

Surveys and estimate

shall also make a careful estimate in detail of the amount required to construct the several portions of the proposed works and of the total amount required to complete the same; he shall also make an estimate in detail of the amount required to be expended in each year for the purpose of maintaining and operating the said works when constructed and such maps, plans and estimates shall be filed by him in the office of the secretary treasurer and shall be open for inspection by any owner or his agent at all reasonable hours. C. O. 74, s. 26.

### ASSESSMENT ROLL.

Assessment

**27.** Upon completion of the maps, plans and estimates provided for in the preceding section the engineer so appointed shall make an assessment roll of the district in which he shall set down to the best of his knowledge, information, skill and ability in the first column thereof the name of each owner of each parcel of land in the district which is liable to taxation under the provisions hereof; in the second column thereof a description of the lands so owned; in the third column thereof the number of acres which are capable of being irrigated by the proposed works as shown by the maps and plans prepared by the engineer and in the fourth column the number of acres which are not capable of being so irrigated. C. O. 74, s. 27.

Unknown owners

**28.** The engineer shall also in such assessment roll give a description of each parcel of lands liable to taxation the owners of which are unknown to him and shall opposite to each parcel enter in the several columns of the said roll the same particulars as are required by the preceding section. C. O. 74, s. 28.

Occupants of Crown lands liable in certain cases

**29.** Occupants of crown lands in respect of which homestead or purchase rights have been granted shall be liable to taxation in respect of their occupancy of the same in the same way as owners of other land. C. O. 74, s. 29.

Notice of assessment

**30.** Upon completion of the assessment roll the engineer shall hand the same to the secretary treasurer of the board who shall within one week after its receipt deliver to each person residing in the district whose name appears on the assessment roll or leave at his residence a notice setting forth the land in respect of which he is assessed or entered on the said roll and the number of irrigable and nonirrigable acres therein and shall mail a similar notice by registered letter to all the persons whose names appear on such roll who reside without such district and shall enter on the roll opposite the name of each person therein the date of such delivery or mailing and such entry shall be *prima facie* evidence of such delivery and of the date thereof.

(2) The assessment roll shall remain in the office of the secretary treasurer of the board except when it is required before the court of revision or before a judge and shall be open for inspection by any owner or by his agent. C. O. 74, s. 30.

### COURT OF REVISION.

**31.** The board shall form a court of revision for the trial of complaints of any owner as to himself or any other person being wrongfully assessed on the said roll or omitted therefrom or of being assessed in respect of property of which they are not the owners or occupants or as to the number of acres stated on such roll to be contained in any parcel or as to the number of acres thereof stated therein as being capable of irrigation by means of the proposed works. C. O. 74, s. 31.

**Court of revision**

**32.** The secretary treasurer shall be the clerk of the court of revision and shall record all the proceedings thereof. C. O. 74, s. 32.

**Secretary treasurer clerk of court**

**33.** The proceedings of the court of revision and the mode of appeal thereto shall be as follows:

**Proceedings on appeal**

1. Any owner desiring to appeal may within two weeks from the date of the delivering or mailing of the assessment notice notify the secretary treasurer in writing of the particulars and grounds of his appeal;

2. Forthwith after the receipt by the secretary treasurer of the assessment roll he shall notify the board thereof and the board shall thereupon fix a day not less than one but within two months after such receipt of the roll and a place at which they will sit as a court of revision;

3. As soon as the time within which notice of appeal may be given has expired the secretary treasurer shall personally or by mail notify the parties appealing and appealed against of the time and place fixed for the sitting of the court of revision;

4. The court of revision may meet and adjourn from time to time but so that their duties shall be completed within the said two months;

5. All evidence before the court of revision shall be taken on oath and any member of the court shall be competent to administer the oath to any person giving evidence before the

court and the secretary treasurer may when required issue a summons to any witness to attend such court or produce documents thereat and if any person so summoned as a witness fails without good and sufficient reason to attend or produce documents (having been tendered witness fees at the rate of $1 per day and actual railway fare or mileage at the rate of ten cents per mile where railway is not available) he shall be guilty of an offence and on summary conviction thereof be liable to a penalty not exceeding $50. C. O. 74, s. 33.

Omissions from assessment roll

**34.** If at any time not later than two weeks before the date fixed for holding the court of revision it shall be discovered that any property has been omitted from the assessment roll the secretary treasurer shall forthwith notify the owner thereof if he resides or has a place of business within the district that application will be made to the court of revision to add the name of such owner and the said property to the assessment roll and that such owner is required to attend the court of revision to show cause why the said property should not be assessed.

(2) If such owner does not reside within the district then such notice shall be posted by registered letter to the post office address of such owner.

(3) After such notice has been given as aforesaid and after the expiration of the time mentioned therein or if such person be not known then without any notice the board may unless good cause is shown to the contrary assess such property and direct the secretary treasurer to enter the same upon the assessment roll with the name of such person if known upon which entry the said property shall be deemed to have been duly assessed. C. O. 74, s. 34.

Revised assessment roll binding

**35.** The roll as finally passed by the court shall be valid and bind all parties concerned notwithstanding any defect or error committed in or with regard to such roll or any defect or error or misstatement in any notice required by this Ordinance or the omission to deliver or transmit such notice. C. O. 74, s. 35.

Assessment roll to be continued

**36.** The assessment roll herein provided for and as revised under the provisions hereof shall be the revised assessment roll of the district until such time as the board shall by bylaw from time to time provide for the making of a new assessment roll and any assessment made under any such bylaw shall be made and revised under and subject to all the provisions of this Ordinance relating to assessments or appeals therefrom. C. O. 74, s. 36.

### BYLAW FOR RAISING LOAN.

**37.** If upon the revision of such roll in the manner herein provided it is found that the amount required to construct and complete the proposed works according to the maps, plans and estimates of the engineer and the amount required to defray the necessary expenses incurred in procuring the erection of such district and the said authorisation including the costs of surveys and plans therefor do not together exceed an amount equal to four dollars per acre of the lands shown by such assessment roll to be capable of irrigation by means of the proposed works and that the amount required to be raised annually for the purpose of maintaining such works and paying the expenses of the administration of the affairs of such district does not exceed an amount equal to one dollar per acre of the lands shown by such roll to be capable of irrigation by means of such works the board shall forthwith submit to a vote of the voters of the said district a bylaw providing for the raising by loan upon the credit of the district the amount shown by such estimate to be required for the purpose of defraying the cost of construction of such work and the amount required to defray the necessary expenses incurred in procuring the erection of such district and in the proceedings hereunder and of obtaining such authorisation and for levying of the necessary rates for the payment of such loan and the interest accruing thereon and for the issue of debentures for the same. C. O. 74, s. 37. **Voting on bylaw**

**38.** Such bylaw shall set forth: **Contents of bylaw**

(*a*) The object of the bylaw;

(*b*) The date upon which it shall take effect;

(*c*) The amount of the proposed loan showing the purposes for which it is proposed to be raised and the several amounts required for each purpose;

(*d*) The times and manner of repayment thereof or of the debentures to be issued therefor, the rate of interest thereon and the times for payment thereof;

(*e*) The total irrigable acreage of the ratable real property in the district as shown by such revised assessment roll;

(*f*) The specific sum to be raised in each year during the currency of the bylaw for the purpose of paying the several instalments of principal and interest payable thereunder. C. O. 74, s. 38.

Time and mode of repayment

**39.** Such bylaw and the debentures issued thereunder shall provide for the payment of the whole principal money within thirty years from the time the bylaw takes effect and shall be repayable by annual instalments extending over the whole of such period or the last twenty years thereof. C. O. 74, s. 39.

Polling subdivisions

**40.** The board may in and by such bylaw divide such district into polling subdivisions for the purpose of taking such vote and shall thereby fix the day and hour and polling place or places for taking the same and fix the time and place when and where the returning officer shall sum up the number of votes given for or against the bylaw.

(2) The day so to be fixed for taking such votes shall not be less than two or more than four weeks from the first publication of such bylaw in the manner hereinafter mentioned.

Returning officer

(3) The board shall appoint a returning officer and if necessary deputy returning officers. The returning officer may act as a deputy returning officer in which case the provisions hereof applicable to deputy returning officers shall apply to him. C. O. 74, s. 40.

Publication of proposed bylaw

**41.** The board shall before the voting thereon by the ratepayers publish a copy of the bylaw in some newspaper published within the said district or if there be no such newspaper then in some newspaper published near the district and such publication shall be continued in at least one number weekly of such newspaper for two consecutive weeks and the secretary treasurer shall post up a copy of the bylaw in his office. C. O. 74, s. 41.

Copy signed by secretary treasurer

**42.** Appended to each copy so published shall be a notice signed by the secretary treasurer stating that such copy is a true copy of a proposed bylaw which shall be taken into consideration by the board after being voted on by the voters and stating the date of the first publication and the day, hour and place or places fixed for taking the votes of the persons entitled to vote. C. O. 74, s. 42.

Qualification of voters

**43.** The persons qualified to vote at the taking of the vote upon such bylaw shall be the owners who were assessed on the last revised assessment roll and are of the full age of twenty-one years. C. O. 74, s. 43.

Oath of qualification

**44.** At the request of any person who is entitled to vote on such bylaw the returning officer or deputy returning officer shall administer to any person applying to vote an oath of qualification in the following form:

"You do swear that you are of the full age of twenty-one years: that you are lawfully in possession or entitled to be in possession of land situate within the irrigation district: that you were assessed on the last revised assessment roll of the said district: that you have not already voted on the bylaw now before the voters and that you have not received any reward or offer or promise of reward for voting on the said bylaw. So help you God." C. O. 74, s. 44.

Voting to be by ballot

**45.** The votes upon the bylaw shall be given by ballot in the manner hereinafter set forth and the ballots shall be in form D in the schedule hereto. C. O. 74, s. 45.

Returning officer's duties

**46.** The returning officer shall procure or cause to be procured as many ballot boxes as there are polling subdivisions in the district and cause to be printed a sufficient number of ballot papers for the purposes of the election. C. O. 74, s. 46.

Delivery of ballot box

**47.** The returning officer shall at least two days before polling day deliver one of the ballot boxes to each deputy returning officer. C. O. 74, s. 47.

Supply of material

**48.** The returning officer shall before the poll is opened caused to be delivered to every deputy returning officer the ballot papers and materials for marking the ballot papers. C. O. 74, s. 48.

Secretary treasurer to supply list of voters

**49.** The secretary treasurer of the board shall supply to each deputy returning officer before the opening of the poll a certified list of the names of the owners of land within his polling subdivision as shewn by the last revised assessment roll and no persons other than those named on such list shall be entitled to vote on such bylaw. C. O. 74, s. 49.

Deputy returning officer

**50.** Every deputy returning officer shall provide a compartment at the polling place to which he is appointed where the voters can mark their ballots screened from observation and may appoint a constable to maintain order at the polling place. C. O. 74, s. 50.

Constable

Proceedings at opening of poll

**51.** Every deputy returning officer shall immediately before the commencement of the poll open the ballot box and call such person as may be present to witness that it is empty; he shall then lock and properly seal the same to prevent its being opened without breaking the seal and then place the box in view for the reception of ballots and the seal shall not be broken nor the box unlocked during the time appointed for taking the votes. C. O. 74, s. 51.

Persons allowed in polling place

**52.** No person shall be allowed in any polling place during the hours for polling except the returning officer, the deputy returning officer, the constable (if any), the voter engaged in voting and any agents appointed as in this section provided.

Scrutineers

(2) On application to him the returning officer may appoint two persons for each poll to act as scrutineers on behalf of the persons in favour of the passage of the bylaw and two persons for each poll to act as scrutineers on behalf of the persons opposed to the passage of the bylaw but before such persons act as such agents they shall severally subscribe and make a declaration before the returning officer or a person empowered to administer oaths in the following form:

"I do solemnly declare that I am interested in and desirous of securing (*or* opposing *as the case may be*) the passage of the bylaw now being or about to be submitted to the vote of the owners in irrigation district. C. O. 74, s. 52.

Proceedings at poll

**53.** Proceedings at the poll shall be as follows:

1. On a person presenting himself for the purpose of voting the deputy returning officer shall ascertain that the name of such person is entered or purports to be entered upon the voters' list of his polling subdivision;

2. If such person takes the oath prescribed by this Ordinance the deputy returning officer shall cause to be entered opposite the name of such person in the proper column of the voters' list the word "sworn";

3. When such person as aforesaid has been required to take the oath prescribed by this Ordinance and refuses to take the same the deputy returning officer shall cause to be entered in the proper column of the voters' list the words "refused to be sworn"; no person who has refused to take the oath prescribed by this Ordinance when requested to do so shall receive a ballot paper or be admitted to vote;

4. When the vote is objected to the deputy returning officer shall cause to be entered in the proper column of the voters' list opposite the voter's name the words "objected to";

5. After the proper entries respecting a person claiming to vote have been made in the voters' list in the manner prescribed the deputy returning officer shall stamp or sign his initials upon the back of the ballot paper and shall deliver the same to such person;

6. The deputy returning officer shall explain to the voter the mode of voting;

7. The deputy returning officer shall cause to be placed in the proper column of the voters' list a mark opposite the name of every voter receiving a ballot paper;

8. Only one person claiming to be entitled to vote shall be allowed at a time in the polling place;

9. Every person receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his ballot paper by placing a cross opposite the words "for the bylaw" or opposite the words "against the bylaw" as the case may be in accordance with his intention to vote for or against the proposed bylaw; he shall then fold the ballot paper so as to conceal the marks on the face of the paper but so as to expose the initials of the deputy returning officer and on leaving the compartment shall forthwith and without exposing the face of the ballot paper to anyone or in any manner making known to any person which way he has voted deliver the same to the deputy returning officer who shall without unfolding it verify his initials and at once deposit it in the ballot box in the presence of all persons then present in the polling place;

10. While any voter is in the compartment for the purpose of marking his ballot paper no other person shall be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper except as hereinafter provided;

11. In case any elector states he is unable to mark his ballot paper:

- (*a*) The deputy returning officer shall administer an oath to such elector that he is unable to mark his ballot paper and shall then cause the vote of such elector to be marked as he directs and shall then place the same in the ballot box; and
- (*b*) The deputy returning officer shall state in the voters' list opposite the name of such elector in the column for remarks the fact that the ballot paper was marked by him at the request of the voter and the reasons therefor;

12. Any elector who has spoiled his ballot paper in marking it and discovers the fact before it has been placed in the ballot box may on returning the same to the deputy returning officer and proving the fact to him obtain another ballot paper and the deputy returning officer shall mark upon the face of the ballot paper so spoiled the word "cancelled," and all ballot

papers so marked shall be preserved by the deputy returning officer and by him returned to the returning officer in the manner hereinafter provided;

13. Any person who has received a ballot paper and who leaves the polling place without delivering same to the deputy returning officer in the manner provided or if after receiving the same refuses to vote shall forfeit his right to vote and the deputy returning officer then shall make an entry in the voters' list opposite the name of such person in the column for remarks that such person received the ballot paper but did not return the same or that the person returned the ballot paper and declined to vote in which case the deputy returning officer shall mark upon the face of the ballot paper the word "declined," and all ballot papers so marked shall be preserved by the deputy returning officer and by him returned to the returning officer in the manner hereinafter provided;

14. Any deputy returning officer who is entitled to vote in a polling subdivision other than the one in which he is performing the duties of such officer may, subject to the other provisions hereof, vote at the polling station at which he is so engaged providing he produces a certificate from the secretary treasurer that he is a qualified voter within the district and the deputy returning officer shall attach such certificate to the voters' list. C. O. 74, s. 53.

**Proceedings after close of poll**

**54.** Immediately after the close of the poll, the deputy returning officer shall, in the presence of the poll clerk, if there be one, open the ballot box and proceed as follows:

1. He shall examine the ballot papers and reject all those on the back of which his initials are not found or on which more votes are given than the voter is entitled to give or on which anything appears by which the voter can be identified and any ballot paper so rejected shall be void;

2. Take a note of any objection made by any agent to any ballot paper found in the ballot box and decide on any question arising out of the objection;

3. Number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be, with his initials;

4. Count the votes given for or against the said bylaw from the ballot papers not rejected and make a written statement of the number of votes given for or against the said bylaw and of the number of ballot papers rejected and not counted by him, which statement shall be then signed by him and such of the agents present as may desire to sign the same;

5. The deputy returning officer shall then certify under his own hand in full words on the voters' list the total number of persons who have voted at the polling place at which he is appointed, and make up into separate packets:

(*a*) The statement of votes given for and against the bylaw and of the rejected ballot papers;

(*b*) The used ballot papers which have not been objected to and which have not been counted;

(*c*) The ballot papers which have been objected to but which have been counted;

(*d*) The rejected ballot papers;

(*e*) The declined and cancelled ballot papers;

(*f*) The voters' list:

which packets, closed up and sealed with his own seal and with the seals of any persons present desiring to affix their seals thereto and marked on the outside with a memorandum designating their respective contents, shall by the deputy returning officer be transmitted forthwith to the returning officer. C. O. 74, s. 54.

Declaration by deputy returning officer

**55.** After the close of the poll the deputy returning officer shall make and subscribe before a justice of the peace a declaration in the following form:

"I, the undersigned, deputy returning officer for polling subdivision No.          of          irrigation district do solemnly declare that the poll book kept by me for the said polling subdivision on the vote on the bylaw of said district to raise $          by way of loan was correctly kept, that the total number of votes polled at said polling subdivision was          of which          were in favour of the said bylaw and          were against it, that the voters' list used at said poll was used in the manner prescribed by law and the entries required to be made therein were made according to law and that I faithfully performed all the duties required of me by law."

2. Such declaration shall be attached to the voters' list and sent to the returning officer. C. O. 74, s. 55.

Counting votes

**56.** At the time and place fixed for declaring the result of the election the returning officer shall open the packet containing the statement of the number of votes given for and against the bylaw and shall publicly declare as to whether the bylaw has been assented to or rejected by the voters, as the case may be, in accordance with the majority of the votes cast. C. O. 74, s. 56.

Return to secretary treasurer

**57.** After the voting the ballot boxes, packets and returns together with a statement showing the result of the vote shall be transmitted by the returning officer to the secretary treasurer who shall be responsible for their safe keeping and for their delivery when required. C. O. 74, s. 57.

Proceedings if majoriy of votes against passing of bylaw

**58.** If the majority of votes polled upon such bylaw is against the passing thereof the board shall forthwith report the same to the commissioner and shall immediately proceed to discharge all the outstanding liabilities of the district and shall have power to make such assessments and levy such rates as may be necessary for such purpose; and so soon as all debts and liabilities of the district have been so discharged it shall immediately cease to exist as such. C. O. 74, s. 58.

If majority of votes in favour

**59.** If the majority of votes polled upon such bylaw is in favour of the passing thereof it shall within one week from the day of voting be finally passed by the board. C. O. 74, s. 59.

Bylaw to receive assent of commissioner

**60.** The bylaw for raising such loan shall receive the assent of the commissioner after the final passing thereof by the board which assent shall be conclusive evidence that all necessary formalities in respect to the passing thereof and to the vote thereon have been complied with. C. O. 74, s. 60.

Issue of debentures

**61.** The trustees having received notice of the assent of the commissioner to such bylaw shall issue debentures for the amount of such proposed loan to secure the repayment of the same with interest, upon the terms specified in the bylaw and said debentures and the coupons thereof shall be sufficient when signed by two of the trustees of the district to bind the district and to create a charge or lien upon all property of the district and all rates levied therein. C. O. 74, s. 61.

Form of debenture

**62.** The debentures to be issued under any such bylaw shall be in the form following or to the like effect:

Canada.
North-West Territories,
$ Debenture No.

The trustees of
irrigation district promise to pay to the bearer at
the sum of dollars
of lawful money of Canada in
equal annual instalments with interest at the rate of
per cent. per annum in the manner specified in the coupons attached hereto.

Dated this day of 1

For the said trustees.

*Trustee.*
*Trustee.*

COUPONS.

Coupon No.
Debenture No.
The trustees of irrigation district
will pay to the bearer at
on the day of 1 the sum
of dollars, being the
payment with the total interest at the rate of
per cent. per annum due on that day on
debenture No.

*Trustee.*
*Trustee.*
C. O. 74, s. 62.

ANNUAL RATES.

**63.** The board shall not later than the first day of May in each year after the bylaw takes effect make an estimate of the amount required to pay the instalments of principal and interest payable under such bylaw up to the expiration of such year and the lawful expenses which shall be incurred during such year in carrying out the provisions of this Ordinance, including salaries and expenses of officers and such allowances as the members of the board may be entitled to under the provisions hereof and the general expenses of the district, and shall forthwith pass a bylaw authorising and directing the levying and collecting of an equal rate upon each acre of irrigable land as shown by the last revised assessment roll for the district which rate shall be sufficient to raise the amount of such estimate after making all due and reasonable allowances for the cost of collection and abatement for losses which may occur in the collection of taxes. C. O. 74, s. 63. **Annual estimate** **Bylaw for collection**

**64.** The secretary treasurer shall be the collector of taxes for the district but the board may appoint another person to be such collector. C. O. 74, s. 64. **Collector**

**65.** Immediately after the passing of such last mentioned bylaw in each year the secretary treasurer shall make out a collector's roll in which he shall set down in the first column thereof the full name of every person whose name appears upon the revised assessment roll and in the second column thereof the amount for which each person is assessed in such **Collector's roll**

assessment roll for such year and in the third column thereof the amount of the taxes and rates with which he is chargeable under the said last mentioned bylaw and shall unless he himself is collector deliver the roll certified under his name to the collector appointed by the board. C. O. 74, s. 65.

Notice of taxation

**66.** The collector shall forthwith after the completion or delivery to him of such collector's roll leave at the usual residence or place of business of or transmit by mail to each person whose name appears on the said roll or to any agent of such person in the district a statement and demand of the taxes charged against him which statement shall state the time such taxes are required to be paid and the collector shall enter the date of delivery or mailing such notice in said collector's roll opposite the name of the person taxed and such entry shall be *prima facie* evidence of the due delivery of such statement and demand. C. O. 74, s. 66.

Distress

**67.** All rates, charges and taxes payable under the provisions of this Ordinance shall be paid to the collector within ten days after such demand thereof by the said collector; and in case of refusal or neglect to pay the same within such time or in case the same shall not be paid before the return of the roll the collector or the secretary treasurer may levy the same with the costs of distress and sale by distress and sale of the goods and chattels of the defaulter situated within the district or of any goods and chattels found upon the premises assessed. C. O. 74, s. 67.

Taxes, a debt to board

**68.** Taxes may be recovered as a debt due to the board in which case the production of the collector's roll or a copy of so much thereof as relates to the taxes payable by any person, certified by the secretary treasurer to be a true copy, shall be *prima facie* evidence of the debt. C. O. 74, s. 68.

Return of roll

**69.** The collector shall on or before the first day of December in each year or such later time as the board may direct return the collector's roll to the secretary treasurer, with an account of all moneys received by him, accompanied by a solemn declaration made before an officer authorised to administer oaths, that the collection and other proceedings have been taken in accordance with the the terms of this Ordinance and that the returns contained therein are correct. C. O. 74, s. 69.

### ARREARS OF TAXES. PROCEDURE AGAINST LAND.

Annual returns

**70.** *The secretary treasurer of every district shall in the first fifteen days of January in each year make a return veri-*

*fied by his solemn declaration to the commissioner in such form as may by the commissioner be from time to time prescribed showing all lands in the district upon which taxes have not been paid together with the years for which such taxes are due.*

(2) *The returns shall for all purposes be prima facie evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed.* 1901, c. 28, s. 9.

**Application for confirmation of return**

**71.** *On application by the attorney general of the Territories or some advocate authorised by him to a judge of the supreme court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the district or if none be published in the district then in a local paper published at a point nearest thereto to be named by the commissioner.*

(2) *A notice of the time and place fixed for the confirmation of such return shall be sent by mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper lands titles office or by the said return to have any interest in the lands mentioned in said return in respect of which confirmation is desired and whose post office address is shown by said records or return; and the entry against such lands of the date of mailing such notice together with the initials of the clerk of the local improvement branch of the department of public works shall without proof of the appointment or signature of the said clerk be prima facie evidence that the required notice has been mailed.* 1901, c. 28, s. 9.

**Hearing of application**

**72.** *At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; and thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default; and report the adjudication to the said attorney general; and shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years naming the amounts severally and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the applica-*

*tion; and the effect of such adjudication shall be to vest in his Majesty for the public use of the Territories the said lands subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by payment to the commissioner of the amounts named including expenses as aforesaid together with a redemption fee of $1 for each and every parcel so redeemed and any subsequent taxes paid by the commissioner.*

(2) *For the purpose of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.*

(3) *In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the commissioner.*

(4) *A copy of such adjudication certified by the commissioner shall be forwarded to the registrar of the land registration district in which the lands named in the adjudication or any of them or situated; and such copies shall be notice to the public of the facts therein contained.* 1901, c. 28. s. 9.

**Payment of taxes before hearing application**

**73.** *If any person interested in any parcel of land contained in the return presented to the judge for confirmation as provided by section 72 of this Ordinance pays the taxes upon such lands before the date fixed for confirmation of such return but after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue pay the sum of $1 for each parcel of land to cover the costs of application to the judge and advertising and postage in connection with such proceedings; and any sum so paid shall form part of the Territorial revenue.* 1901, c. 28, s. 9.

**When land to vest in Crown**

**74.** *At any time after the expiration of the year last named on ex parte application by the attorney general or an advocate appointed by him and production of the last named adjudication together with the certificate of the commissioner showing that the land has not been redeemed the judge by order in chambers may direct that the title to such of the land named in the adjudication as has not been redeemed by the owner be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatever nature and kind the same may be.* 1901, c. 28, s. 9.

**Commissioner to pay arrears of taxes**

**74a.** *So soon as the return of the secretary treasurer has been confirmed the commissioner shall pay to the secretary treasurer the amount of taxes adjudged in arrears on each* *parcel of land deducting therefrom any charges he may have been required to pay; and thereafter yearly while owned by his Majesty the said land shall be assessed in the name of the commissioner who shall pay taxes as if the land were assessed to an ordinary individual.* 1901, c. 28, s. 9.

**75.** The commissioner may from time to time offer for sale any lands vested in her Majesty as herein provided at such prices and upon such terms as may be fixed by the Lieutenant Governor in Council. C. O. 74, s. 75. **Sale of lands**

**76.** The taxes accruing upon or in respect of any real estate in the district liable to taxation under the provisions hereof shall be a special lien upon such real estate including the buildings and improvements thereon having preference over any claim, lien privilege or incumbrance and of any party whomsoever. C. O. 74, s. 76. **Taxes special lien**

GENERAL PROVISIONS.

**77.** In addition to the powers hereinbefore mentioned the board shall *subject to the provisions of The North-West Irrigation Act 1898* have and possess and may exercise all the powers which may be necessary in order to enable them to construct and maintain the said works and may by bylaw provide for the construction or maintenance thereof or both in such manner as it may see fit and may also make and enforce such regulations as it may see fit respecting the supply of water to any person and for the disposal or supply of any surplus water which is not required for the purpose of the district and for the cutting off or stopping the supply of any water to any person in arrears in respect thereof and to any persons from whom rates or taxes are due to such district. C. O. 74, s. 77 and 1899, c. 18, s. 4. **Further powers of board**

**78.** The board may pass bylaws from time to time authorising the chairman and treasurer thereof to borrow from any person, bank or corporation such sum or sums of money as may from time to time be required to pay any instalment of principal or interest or both falling due upon any such debentures or to provide for any other expenditure until such time as the taxes levied or to be levied therefor can be collected. C. O. 74, s. 78. **Borrowing**

**79.** In case of any vacancy in the board by death, resignation or otherwise the remaining members of the board shall appoint some owner residing within the district to the vacant **Vacancy in board**

*tion; and the effect of such adjudication shall be to vest in his Majesty for the public use of the Territories the said lands subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by payment to the commissioner of the amounts named including expenses as aforesaid together with a redemption fee of $1 for each and every parcel so redeemed and any subsequent taxes paid by the commissioner.*

(2) *For the purpose of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.*

(3) *In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the commissioner.*

(4) *A copy of such adjudication certified by the commissioner shall be forwarded to the registrar of the land registration district in which the lands named in the adjudication or any of them or situated; and such copies shall be notice to the public of the facts therein contained.* 1901, c. 28. s. 9.

**Payment of taxes before hearing application**

**73.** *If any person interested in any parcel of land contained in the return presented to the judge for confirmation as provided by section 72 of this Ordinance pays the taxes upon such lands before the date fixed for confirmation of such return but after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue pay the sum of $1 for each parcel of land to cover the costs of application to the judge and advertising and postage in connection with such proceedings; and any sum so paid shall form part of the Territorial revenue.* 1901, c. 28, s. 9.

**When land to vest in Crown**

**74.** *At any time after the expiration of the year last named on ex parte application by the attorney general or an advocate appointed by him and production of the last named adjudication together with the certificate of the commissioner showing that the land has not been redeemed the judge by order in chambers may direct that the title to such of the land named in the adjudication as has not been redeemed by the owner be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatever nature and kind the same may be.* 1901, c. 28, s. 9.

**Commissioner to pay arrears of taxes**

**74a.** *So soon as the return of the secretary treasurer has been confirmed the commissioner shall pay to the secretary treasurer the amount of taxes adjudged in arrears on each* *fied by his solemn declaration to the commissioner in such form as may by the commissioner be from time to time prescribed showing all lands in the district upon which taxes have not been paid together with the years for which such taxes are due.*

(2) *The returns shall for all purposes be prima facie evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed.* 1901, c. 28, s. 9.

**Application for confirmation of return**

**71.** *On application by the attorney general of the Territories or some advocate authorised by him to a judge of the supreme court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the district or if none be published in the district then in a local paper published at a point nearest thereto to be named by the commissioner.*

(2) *A notice of the time and place fixed for the confirmation of such return shall be sent by mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper lands titles office or by the said return to have any interest in the lands mentioned in said return in respect of which confirmation is desired and whose post office address is shown by said records or return; and the entry against such lands of the date of mailing such notice together with the initials of the clerk of the local improvement branch of the department of public works shall without proof of the appointment or signature of the said clerk be prima facie evidence that the required notice has been mailed.* 1901, c. 28, s. 9.

**Hearing of application**

**72.** *At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; and thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default; and report the adjudication to the said attorney general; and shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years naming the amounts severally and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the applica-*

position. In case there are no members of the board remaining the commissioner shall appoint three such persons to constitute the board. C. O. 74, s. 79.

Failing appointment of officers, etc., by board, commissioner to appoint

**80.** In case the board shall at any time fail to appoint the necessary officers to carry out the provisions of this Ordinance or in case any officer appointed by the board shall fail to perform the duties prescribed by this Ordinance the commissioner shall appoint the necessary officer or officers for the purpose of carrying out the provisions hereof and any such officer so appointed shall have and possess all the powers and shall perform all the duties of his office in the same manner as if he had been appointed by the board. C. O. 74, s. 80.

### ALTERATION OF BOUNDARIES.

Alteration of boundaries

**81.** The commissioner shall have power to alter and amend the boundaries and area of any district erected as herein provided by adding thereto or taking therefrom but no area shall be added to a district unless the majority of the owners in such area signify their consent to such addition nor shall any portion of a district be cut off unless the board by resolution agrees to such reduction in the area of the district.

(2) In case of any district having any debenture debt outstanding no alteration shall be made in the same or in the boundaries thereof which will prejudicially affect the rights or security of the holders of any such debentures.

(3) The order of the commissioner amending the boundaries or area of any district erected under the provisions hereof shall be published in the official gazette and a copy thereof filed by the board. C. O. 74, s. 81.

### EXECUTIONS AGAINST DISTRICTS.

Execution against district

**82.** Any writ of execution against a district may be indorsed with a direction to the sheriff to levy the amount thereof by rate and the proceedings thereon shall be as follows:

1. The sheriff shall deliver a copy of the writ and indorsement to the secretary treasurer of the board with a statement in writing of the amount required to satisfy such execution including the amount of interest thereon and sheriff's fees and demand the payment of the same;

2. In case the amount demanded is not paid to the sheriff within thirty days after such delivery the sheriff shall examine the assessment roll of the district and shall in like manner as rates are struck for general district purposes strike a rate in the dollar sufficient to cover the amount claimed as aforesaid

*parcel of land deducting therefrom any charges he may have been required to pay; and thereafter yearly while owned by his Majesty the said land shall be assessed in the name of the commissioner who shall pay taxes as if the land were assessed to an ordinary individual.* 1901, c. 28, s. 9.

Sale of lands

**75.** The commissioner may from time to time offer for sale any lands vested in her Majesty as herein provided at such prices and upon such terms as may be fixed by the Lieutenant Governor in Council. C. O. 74, s. 75.

Taxes special lien

**76.** The taxes accruing upon or in respect of any real estate in the district liable to taxation under the provisions hereof shall be a special lien upon such real estate including the buildings and improvements thereon having preference over any claim, lien privilege or incumbrance and of any party whomsoever. C. O. 74, s. 76.

GENERAL PROVISIONS.

Further powers of board

**77.** In addition to the powers hereinbefore mentioned the board shall *subject to the provisions of The North-West Irrigation Act 1898* have and possess and may exercise all the powers which may be necessary in order to enable them to construct and maintain the said works and may by bylaw provide for the construction or maintenance thereof or both in such manner as it may see fit and may also make and enforce such regulations as it may see fit respecting the supply of water to any person and for the disposal or supply of any surplus water which is not required for the purpose of the district and for the cutting off or stopping the supply of any water to any person in arrears in respect thereof and to any persons from whom rates or taxes are due to such district. C. O. 74, s. 77 and 1899, c. 18, s. 4.

Borrowing

**78.** The board may pass bylaws from time to time authorising the chairman and treasurer thereof to borrow from any person, bank or corporation such sum or sums of money as may from time to time be required to pay any instalment of principal or interest or both falling due upon any such debentures or to provide for any other expenditure until such time as the taxes levied or to be levied therefor can be collected. C. O. 74, s. 78.

Vacancy in board

**79.** In case of any vacancy in the board by death, resignation or otherwise the remaining members of the board shall appoint some owner residing within the district to the vacant such officers are absent from the district or for any reason the sheriff is unable to proceed as herein provided he may (upon application to a judge of the supreme court) be invested with full power and authority to assess, levy, collect and enforce payment of such sum or sums of money as may be required to pay and satisfy the execution or executions and all fees and legal expenses including such allowance for the costs, levy, collection and enforcement of payment as the judge may allow, in the same manner as assessors, collectors or secretary treasurers are authorised to do by this Ordinance:

Appeal

Provided that in case any person desires to appeal from any assessment or omission of assessment by the sheriff appeal may be had to a judge of the supreme court. C. O. 74, s. 84.

## SCHEDULE.

### FORM A.

Notice is hereby given that under the provisions of *The Irrigation District Ordinance* the undersigned has been appointed by the commissioner of public works for the purpose of taking a vote on the question of the erection of the Irrigation District and, if such vote is in favour of the erection of such district, to hold an election of three duly qualified persons to compose the board of trustees of the said irrigation district which comprises the following area:

(*Here set out area.*)

The persons entitled to vote are such persons as are of the full age of twenty-one years who are lawfully in possession of or entitled to be in possession of land situate within the district.

Now therefore the electors so qualified to vote are hereby notified to attend at (*describing the place of voting*) on the day of 1 at the hour of ten o'clock in the forenoon at which hour and place I will proceed to take a vote on the said question and if the vote thereon is favourable to the erection of the district I will at one o'clock in the afternoon of the said date receive nominations for persons to serve as such trustees and if at the hour of two o'clock in the afternoon on said day more than three persons have been nominated I will forthwith proceed to hold a poll and receive the votes of persons qualified to vote which poll will continue open until and close at the hour of five o'clock in the afternoon of said day at which time I will declare the result of the poll.

Dated this day of 1 .

*Returning Officer.*

C. O. 74.

## FORM B.

....................Irrigation District.

We the undersigned severally declare each for himself that he is an owner of land, as defined in *The Irrigation District Ordinance,* in the above named district; that he is of the full age of twenty-one years and that he votes upon the land set opposite his name and for or against the erection of the said district as indicated by the cross set opposite his name.

| Name | Land voted upon | For the erection of the district | Against the erection of the district |
|---|---|---|---|
| | | | |

*Returning Officer.*

C. O. 74.

## FORM C.

....................Irrigation District.

I, *A B.*, Returning Officer for the Irrigation District, hereby solemnly declare that the record of votes annexed signed by me is a true record of the votes cast upon the day of 1 for and against the erection of the district and (*if the vote was in favour of the erection of the district*) for the election of three trustees for the district and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at
this day of
1 .

*Returning Officer.*

*A Commissioner or J.P.*

C. O. 74.

## FORM D.

.....................Irrigation District.

BALLOT PAPER.

Vote on bylaw to raise $ for the construction of the works required for irrigation of the district.

| | |
|---|---|
| Against the bylaw | |
| For the bylaw | |

C. O. 74.

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# IRRIGATION DISTRICTS.

AMENDMENT.

1901, c. 28
12 June, 1901

## An Ordinance to further amend Chapter 74 of the Consolidated Ordinances 1898, intituled "An Ordinance respecting Irrigation Districts."

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

INTERPRETATION.

1. In this Ordinance unless the context otherwise requires:

Commissioner
1. The expression "commissioner" means the commissioner of public works for the Territories;

District
2. The expression "district" means any irrigation district created under the provisions of *The Irrigation District Ordinance;*

Board of trustees
3. The expression "board of trustees" means the board of trustees of any district;

District commissioner
4. The expression "district commissioner" means any district commissioner appointed under the provisions of this Ordinance;

Chief engineer
5. The expression "chief engineer" means the chief engineer of the department of public works for the Territories. 1901, c. 28, s. 1.

**2.** The Lieutenant Governor in Council may appoint a district commissioner for any district; and a notice of such appointment shall be published in the official gazette.

Lieutenant Governor may appoint district commissioner.

(2) The remuneration to be paid any district commissioner shall be fixed by the Lieutenant Governor in Council; and such remuneration shall be paid out of the funds of the district. 1901, c. 28, s. 2.

**3.** A district commissioner appointed under the provisions of this Ordinance shall have all the powers and authorities of the board of trustees for the district for which he is appointed; and during the term of his appointment no election of a board of trustees shall be held. 1901, c. 28, s. 3.

Powers of district commissioner

**4.** Upon the appointment of a district commissioner the board of trustees of the district for which he is appointed shall cease to hold office as such.

Cessation of board of trustees

(2) The board of trustees and any and all their officers shall upon demand of the district commissioner hand over to him all moneys, books, plans, tools, implements and property whatsoever belonging to the district; and any board of trustees or any individual member thereof or any officer of such board refusing or neglecting to so hand over the moneys, books, plans, tools, implements or other property of the district shall be guilty of an offence and liable upon summary conviction thereof to a fine not exceeding $100 or to imprisonment for one month or to both. 1901, c. 28, s. 4.

**5.** In any district for which a district commissioner shall have been appointed as provided by this Ordinance the chief engineer shall be the engineer required to be appointed by section 26 of *The Irrigation District Ordinance.* 1901, c. 28, s. 5.

Chief engineer to act

**6.** If it is found by the district commissioner that the amount required to construct and complete the proposed work of the district according to the maps, plans and estimates of the engineer together with any liability incurred by the district prior to the appointment of the district commissioner does not exceed an amount equal to $4 per acre of the lands shown by such maps and plans and by the assessment roll of the dstrict to be irrigable by means of the proposed works and that the amount required to be raised annually for the purpose of maintaining such works and paying the expenses of the administration of the affairs of the district including interest and sinking fund does not exceed an amount equal to $1 per

Lieutenant Governor may grant borrowing powers acre of the lands shown to be irrigable as above mentioned the Lieutenant Governor in Council may authorise the raising by loan upon the credit of the district of the amount certified by the district commissioner and engineer to be required to defray the cost of the construction and completion of the proposed works and for the levying of the necessary rates for the payment of such loan and the interest accruing thereon and for the issue of debentures for the same. 1901, c. 28, s. 6.

**Election of new trustee board** 7. Upon the expiration of the term of appointment of any district commissioner or at an earlier date if he deems it expedient to do so the Lieutenant Governor in Council shall make provision for the election of a new board of trustees for the district. 1901, c. 28, s. 7.

**Death or resignation of district commissioner** 8. In the event of the death or resignation of any district commissioner appointed under the provisions of this Ordinance the vacancy so caused shall be filled by the appointment of a new district commissioner by the Lieutenant Governor in Council. 1901, c. 28, s. 8.

**Sections repealed** 9. Sections 70, 71, 72, 73 and 74 of the said chapter 74 of *The Consolidated Ordinances 1898* are repealed and the following substituted therefor:

* * * * * * * * *

1901, c. 28, s. 9.

**Rules and regulations may be made** 10. The commissioner may from time to time make such rules and regulations and prescribe such forms not inconsistent with the provisions of *The Irrigation District Ordinance* as may be necessary to the effective and proper administration of any district for which a district commissioner shall have been appointed as herein provided. 1901, c. 28, s. 10.

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# JUDICATURE.

*Principal Ordinance* ... .... *C.O. 1898, c. 21 amd.*
*Amending Ordinance* *1899, c. 5; 1900, c. 5; 1903, Sess. 2, c. 6.*

**C.O. 1898, c. 21**
**15 March, 1899**

## An Ordinance respecting the Administration of Civil Justice.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

## SHORT TITLE.

**1.** This Ordinance may be cited as *"The Judicature Ordinance."* C. O. 21, s. 1. Title

## INTERPRETATION OF TERMS.

**2.** In the construction of this Ordinance and the rules of court, unless there is anything in the subject or context repugnant thereto, the several expressions hereinafter mentioned or referred to shall have or include the meanings following: Interpretation

1. "Cause" includes any action, suit or other original proceeding between a plaintiff and a defendant; "Cause"

2. "Action" includes suit and means a civil proceeding commenced by writ or in such other manner as may be prescribed by this Ordinance or by rules of court; "Action"

3. "Matter" includes every proceeding in the court not in a cause; "Matter"

4. "Originating summons" means a summons by which proceedings are commenced without writ; "Originating summons"

5. "Plaintiff," "petitioner," "defendant," "party," "person," include bodies politic or corporate holding the relation of plaintiff, defendant or party; "Parties"

6. "Receiver" includes consignee or manager appointed by or under an order of the court; "Receiver"

7. "Plaintiff" includes any person asking any relief (otherwise than by way of counterclaim as a defendant) against any other person by any form of proceeding, whether the same be taken by action, suit, petition, motion, summons or otherwise; "Plaintiff"

8. "Petitioner" includes every person making any application to the court, either by petition, motion or summons, otherwise than as against any defendant; "Petitioner"

9. "Defendant" includes every person served with any writ of summons or process or served with notice of or entitled to attend any proceedings; "Defendant"

10. "Party" includes every person served with notice of or attending any proceeding although not named in the record; "Party"

11. "Person" includes a body corporate or politic; "Person"

12. "Clerk" or "clerk of the court" includes deputy clerk and, where the context requires it, process issuer; "Clerk"

"Sheriff" 13. "Sheriff" includes deputy sheriff, duly appointed bailiffs, coroner and other person discharging the duties of sheriff in the particular case or for the time being;

"Pleading" 14. "Pleading" includes any petition or summons (other than a writ of summons) and shall also include the statement in writing of the claim or demand of any plaintiff and of the defence of any defendant thereto and of the reply of the plaintiff to any counterclaim of a defendant;

"Judgment" 15. "Judgment" includes decree;

"Order" 16. "Order" includes rule;

"Affidavit" "Oath" 17. "Affidavit" or "oath" includes affirmation where authorised by law;

"Rule of court" 18. "Rule of court" or "rules of court" shall mean the rules contained in this Ordinance or any rules of court passed in pursuance or under the authority thereof;

"Lunatic" 19. "Lunatic" includes an idiot or other person of unsound mind;

"Execution creditor" 20. "Execution creditor" includes an assignee of the execution creditor. C. O. 21, s. 2.

## JURISDICTION.

Jurisdiction

Practice and procedure

**3.** The jurisdiction of the supreme court of the North-West Territories shall be exercised so far as regards procedure and practice in the manner provided by this Ordinance and the rules of court and where no special provision is contained in this Ordinance or the said rules it shall be exercised as nearly as may be as in the supreme court of Judicature in England as it existed on the first day of January, 1898. C. O. 21, s. 3.

Entry and trial of suits, in what district

**4.** Suits shall be entered and unless otherwise ordered tried in the judicial district where the cause of action arose or in which the defendant or one of several defendants resides or carries on business at the time the action is brought.

(2) If in any judicial district there is a district of a deputy clerk established by Ordinance, suits in which the cause of action arose or the defendant resides in such deputy clerk's district shall be entered in the office of the deputy clerk and suits in which the cause of action arose or the defendant resides in the remaining portion of the judicial district shall be entered in the office of the clerk of the court and if in any suit the cause of action arose in the deputy clerk's district and

the defendant resides in the other portion of the judicial district or *vice versa* the suit may be commenced in either the clerk's or deputy clerk's office. C. O. 21, s. 4.

Judge in chambers. Announcement that sitting in court

**5.** A judge sitting in chambers if he shall announce that he is sitting in court shall have, possess, exercise and enjoy all the powers and authorities, rights, privileges, immunities and incidents of the said court and any judgment given or decision or determination or rule, order or decree made by him while sitting as aforesaid in respect of any matter lawfully brought before him shall be subject to the provisions in this Ordinance relating to appeal to the court *en banc*. C. O. 21, s. 5.

Court may make vesting orders

**6.** In every case in which the court has authority to order the execution of a deed of conveyance, transfer or assignment of any property, real or personal, the court may by order vest such real or personal estate in such person or persons and in such manner and for such estates as would be done by any such deed, conveyance, assignment or transfer if executed; and thereupon the order shall have the same effect as if the legal or other estate or interest in the property had been actually conveyed by deed or otherwise for the same estate or interest to the person in whom the same is so ordered to be vested, or in the case of a *chose in action* as if such *chose in action* had been actually assigned to such last mentioned person. C. O. 21, s. 6.

Sittings of court

**7.** The supreme court presided over by a single judge for the transaction of the business of the court may sit and act at any time and place in each judicial district as any judge usually exercising the jurisdiction of the court within such district appoints. C. O. 21, s. 7.

Judicial districts

**7a.** *The Lieutenant Governor in Council may by order divide or otherwise alter the boundaries of any judicial district now or hereafter established and may establish new districts and may by any such order or any other order make such provisions as he may deem necessary to protect the interests affected thereby.* 1903, Sess. 2, c. 6, s. 2.

## RULES OF LAW.

**8.** In every civil cause or matter commenced in the supreme court law and equity shall be administered by such court according to the following rules:

Equitable estate, right or relief claimed by plaintiff

1. If any plaintiff or petitioner claims to be entitled to any equitable estate or right, or to relief upon any equitable ground against any deed, instrument or contract, or against any right, title or claim whatsoever asserted by any defendant or respondent in such cause or matter or to any relief founded upon a legal right, the court shall give to such plaintiff or petitioner such relief as would be given by the High Court of Justice in England in a suit or proceeding for the same or a like purpose;

Equitable estate, right or relief claimed by defendant

2. If any defendant claims to be entitled to any equitable estate or right or to relief upon any equitable ground against any deed, instrument or contract or against any right, title or claim asserted by any plaintiff or petitioner in such cause or matter, the said supreme court and every judge thereof shall give to every equitable estate, right or ground of relief so claimed and to every equitable defence so alleged, such and the same effect by way of defence against the claim of such plaintiff or petitioner as the High Court of Justice in England would give if the same or like matters had been relied on by way of defence in any suit or proceeding instituted in that court for the same or like purpose;

Counterclaim and third parties

3. The said supreme court and every judge thereof shall also have power to grant to any defendant in respect to any equitable estate or right or other matter of equity and also in respect of any legal estate, right or title claimed or asserted by him, all such relief against any plaintiff or petitioner as such defendant shall have properly claimed by his pleading; and also all such relief relating to or connected with the original subject of the cause or matter, and in like manner claimed against any other person, whether already a party to the same cause or matter or not, who shall have been duly served with notice in writing of such claim pursuant to this Ordinance, or any order of the Court as might properly have been granted against such person if he had been made a defendant to a cause duly instituted by the same defendant for the like purpose and every person served with any such notice shall thenceforth be deemed a party to such cause or matter with the same rights in respect of his defence against such claim as if he had been duly sued in the ordinary way by such defendant;

Equitable rights appearing incidentally

4. The said court and every judge thereof shall recognise and take notice of all equitable estates, titles and rights and all equitable duties and liabilities appearing incidentally in the course of any cause or matter, in the same manner in which the High Court of Justice in England would have recognised and taken notice of the same in any suit or proceeding duly instituted therein;

Final determination of matters in controversy

5. The supreme court in the exercise of its jurisdiction in every cause or matter pending before it shall have power to grant, and shall grant either absolutely or on such reasonable terms and conditions as to it shall seem just all such remedies whatsoever as any of the parties thereto may appear to be entitled to in respect of any and every legal or equitable claim properly brought forward by them respectively in such cause or matter; so that as far as possible all matters so in controversy between the said parties respectively may be completely and finally determined and all multiplicity of legal proceedings concerning any such matters avoided. C. O. 21, s. 8.

Multiplicity of proceedings to be avoided

Lunatics

Jurisdiction of court

9. In the case of lunatics and their property and estates, the jurisdiction of the court shall, subject to the rules of court, include that which in England is conferred upon the Lord High Chancellor by a Commission from the Crown under the Sign Manual. C. O. 21, s. 9.

10. The law to be administered in the Territories as to the matters next hereinafter mentioned shall be as follows:

Express trusts

1. No claim of a *cestui que trust* against his trustee for any property held on an express trust or in respect of any breach of such trust shall be held to be barred by any Statute of Limitations.

Equitable waste

2. An estate for life without any impeachment of waste shall not confer or be deemed to have conferred upon the tenant for life any legal right to commit waste of the description known as equitable waste unless an intention to confer such right shall expressly appear by the instrument creating such estate.

Merger

3. There shall not be any merger by operation of law only of any estate the beneficial interest in which would not be deemed to be merged or extinguished in equity.

Mortgagors of land, rights of action of

4. A mortagagor entitled for the time being to the possession or receipt of the rents and profits of any land as to which no notice of his intention to take possession or to enter into the receipt of the rents and profits thereof shall have been given by the mortgagee may sue for such possession, or sue or distrain for the recovery of such rents or profits or to prevent or recover damages in respect of any trespass or other wrong relative thereto in his own name only unless the cause of action arises upon a lease or other contract made by him jointly with any other person and in that case he may sue or distrain jointly with such other person.

Assignment of *chose in action*

5. In case of an assignment of a debt or other *chose in action,* if the debtor, trustee or other person liable in respect of such debt or *chose in action* shall have had notice that such

assignment is disputed by the assignor or any one claiming under him, or of any other opposing or conflicting claims to such debt or *chose in action,* he shall be entitled if he think fit to call upon the several persons making claim thereto to interplead concerning the same.

Conflicting claims

Interpleader

Stipulations in contracts as to time, etc.

6. Stipulations in contracts as to time or otherwise which would not heretofore have been deemed to be or to have become of the essence of such contract in a court of equity shall receive in the Territories the same construction and effect as they would in equity.

Part performance when satisfaction

7. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose though without any new consideration shall be held to extinguish the obligation.

Interlocutory mandamus

Injunction

Receiver

8. A mandamus or an injunction may be granted or a receiver appointed by an interlocutory order of the court or judge in all cases in which it shall appear to the court or judge to be just or convenient that such order should be made and any such order may be made either unconditionally or upon such terms and conditions as the court or judge shall think just; and if an injunction is asked, either before or at or after the hearing of any cause or matter, to prevent any threatened or apprehended waste or trespass such injunction may be granted, if the court or judge shall think fit whether the person against whom such injunction is sought is or is not in possession under any claim of title or otherwise or (if out of possession) does or does not claim a right to do the act sought to be restrained under any colour of title and whether the estates claimed by both or by either of the parties are legal or equitable.

Damages in addition to or instead of injunction or specific performance

9. In all cases in which the court has jurisdiction to entertain an application for an injunction against a breach of any covenant, contract or agreement or against the commission or continuance of any wrongful act or for the specific performance of any covenant, contract or agreement, the court if it thinks fit may award damages to the party injured either in addition to or in substitution for such injunction or specific performance and such damages may be ascertained in such a manner as the court may direct or the court may grant such other relief as it may deem just.

Orders of court as against purchasers

10. An order of the court under any statutory or other jurisdiction shall not as against a purchaser whether with or without notice be invalidated on the ground of want of jurisdiction or of want of any concurrence, consent, notice or service.

11. Generally in all matters in which there is any conflict or variance between the rules of equity and common law with reference to the same matter the rules of equity shall prevail. Rules of equity to prevail

12. Subject to the provisions of any Act of the Parliament of Canada and of any Ordinance the laws of evidence which govern in the administration of civil justice in England shall obtain in the courts, *and it is hereby declared that the provisions of The Canada Evidence Act 1893 as now or hereafter from time to time amended apply to all proceedings or matters over which the Legislative Assembly of the Territories now has or hereafter shall have jurisdiction.* Evidence

13. Minors may sue for wages in the same way as if of full age. C. O. 21, s. 10 and 1901, c. 10, s. 1. Minors

### CLERK'S DUTIES.

**11.** The duties of the clerk shall be: Clerk's duties

1. To attend at his office and keep the same open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays and except on Saturdays and during vacation when the same shall be closed at one o'clock in the forenoon; Hours of office

2. On application of any person by himself or his agent: Official duties

(*a*) To receive all complaints and other papers required to be filed in court;

(*b*) To issue all writs of summons, warrants, precepts, writs of execution and other documents rendered necessary or requisite for the effectual disposition of such matters;

(*c*) Tax costs, enter judgments and record all judgments and orders pronounced, given and made;

3. To keep an account of all fines, fees and moneys payable or paid into court entering all such amounts in proper approved books in which shall be entered regularly under separate headings all the proceedings taken in any suit, all moneys received and paid out and the persons to whom and by whom the same have been paid which books shall be accessible at all times to suitors and the public; Accounts and books

4. To attend all sittings of the judge in chambers unless his attendance is dispensed with by the judge; and Sitting in chambers

5. To do and perform all such other acts and duties as may be necessary for the due administration of civil justice in the Territories. C. O. 21, s. 11. Duties generally

Absence of clerk

**12.** In the absence of the clerk the judge may appoint a suitable person to perform the duties prescribed in the preceding section. C. O. 21. s. 12.

On vacancy

Appointment of substitute

Disposition of books, documents and moneys

**13.** All books, papers, documents and moneys in the possession of the clerk by virtue of or appertaining to his office shall upon his resignation, removal or death immediately become the property of such person as the judge usually exercising jurisdiction in the district shall appoint as clerk pending the appointment of a new clerk of the court. C. O. 21, s. 13.

### PUBLIC ADMINISTRATORS.

Public administrator and official guardian

**14.** In each judicial district or for such other portion of the Territories as may be deemed desirable the Lieutenant Governor may appoint a fit and proper person being an advocate of not less than five years' standing to be a public administrator and official guardian under the name of public administrator. C. O. 21, s. 14.

Duty as to neglected property of deceased

**15.** When any person dies whether testate or intestate and his lands, personal estate and effects have not been taken possession of by his executors or next of kin the public administrator in the judicial district where the property or any of the property is situated is hereby empowered and it shall be his duty when the facts are brought to his notice to forthwith take possession of the said lands, personal estate and effects and the same to safely keep, preserve and protect and pending the grant of probate to an executor or the issue of letters of administration as the case may be the public administrator shall have all the powers of an executor or administrator. C. O. 21, s. 15.

Issue of letters of administration to public administrator

**16.** In the absence of any application for probate of a will or for letters of administration within one month after the decease of any person leaving property, letters of administration to the lands, personal estate and effects of the deceased may be granted to the public administrator:

Revocation of

Provided nevertheless that such letters of administration may at any time after the grant thereof be revoked in the discretion of the judge upon the application of any executor applying for probate of will or next of kin of the deceased applying for letters of administration. C. O. 21, s. 16.

Security by public administrator

**17.** Each public administrator shall furnish security to the satisfaction of the Lieutenant Governor in Council in the penal sum of $2,000 conditioned for the due performance of his duties; but shall not otherwise be required to furnish security as administrator unless the judge specially so directs and such security may be furnished by bond or agreement of any guarantee company approved by the Lieutenant Governor in Council.

Proceedings on public administrator's bond

(2) *Any person interested may by leave of the attorney general institute proceedings in his own name on the security to be furnished by public administrators as required hereby, without any assignment thereof, and in case a public administrator is directed by a judge to furnish security otherwise, any person interested may by leave of the court or judge institute proceedings thereon without any assignment thereof.* C. O. 21, s. 17 and 1899, c. 5, s. 1.

Intestacy where estate under $200

**17a.** *Whenever a person dies, upon the filing of an affidavit with the clerk or deputy clerk of the judicial district within which he had his last known place of abode, that as far as can be ascertained he has not left a will or testamentary disposition and that his estate does not exceed in value the sum of two hundred dollars, the public administrator shall at the expiration of sixty days after the decease of such person or within that time if a judge so orders (unless some other person has applied for the grant to him of letters of administration or letters testamentary and such grant has been made) be the administrator of such estate to all intents and purposes as if letters of administration or letters testamentary had formally issued to him and the formal grant of probate or administration to him shall not be necessary.* 1899, c. 5, s. 2.

(2) *In any case in which the public administrator shall be the administrator of an estate under this section he shall without any order for that purpose, advertise for claims once in a newspaper published weekly or semi-weekly at or near the last place of residence of the deceased and after the expiration of two months from the said advertisement he shall proceed to distribute the estate having regard only to the claims of which he shall have had notice.*

(3) *The remuneration of a public administrator acting hereunder shall be fixed by the judge at a lump sum and shall, subject to incumberances on the estate, be a first charge thereon.*

(4) *After such administration the public administrator shall file in the clerk's office an account thereof verified on oath.* 1899, c. 5, s. 2.

May be required to apply for letters of administration

**18.** After the expiry of one month from the death of any person leaving property any person interested in the estate may by written notice require the public administrator (if he has not already done so) to apply for letters of administration and it shall then be the duty of the said public administrator to make such application provided the person making such requisition shall make such deposit with the public administrator as a judge may deem sufficient to cover his costs, charges and expenses if the public administrator so desire. C. O. 21, s. 18.

Yearly statements of emoluments

**19.** During the month of January in each year the public administrator shall furnish to the Lieutenant Governor in Council a statement in detail verified by oath of the emoluments of his office for the preceding year ending the thirty-first day of December. C. O. 21, s. 19.

PRACTICE AND PROCEDURE.

Practice and procedure

**20.** The practice and procedure in the supreme court of the Territories shall be regulated by this Ordinance and the rules of court; but the judges of the supreme court or a majority of them shall have power to frame and promulgate such additional rules of court not inconsistent with this Ordinance as they may from time to time deem necessary or expedient. C. O. 21, s. 20.

Rules of court

**21.** Subject to the provisions of this Ordinance and the rules of court the practice and procedure existing in the supreme court of judicature in England on the first day of January, 1898, shall as nearly as possible be followed in all causes, matters and proceedings. C. O. 21, s. 21.

Existing rules continued

**22.** The rules of court already made and promulgated by the judges of the supreme court are hereby continued in force until repealed, altered or amended by them. C.O. 21, s. 22.

# RULES OF COURT.

[*The division of these rules into orders and headings is not to affect the interpretation thereof.*]

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## Part I.

### General Practice and Procedure.

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### ORDER I.

#### FORM AND COMMENCEMENT OF ACTION.

**Commencement of action**

**Praecipe**

1. Every action except as otherwise provided shall be commenced by writ of summons in form A in the schedule hereto which writ shall be issued by the clerk upon receiving from the plaintiff or his advocate a *praecipe* therefor in which shall be set forth:

(*a*) The names of the parties to the action; and

(*b*) Their places of residence temporary or otherwise; and

(*c*) The residence of the plaintiff's advocate if such writ be issued by an advocate. C. O. 21, R. 1.

**Statement of claim**

2. At the time of the issue of the writ the plaintiff or his advocate shall leave with the clerk two copies of the plaintiff's statement of claim and of the relief or remedy to which he claims to be entitled; one of such copies shall be attached to such writ by the clerk and the other shall be filed by him in his office and a copy of such statement of claim shall be attached to each copy of such writ required for service. C. O. 21, R. 2.

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### ORDER II.

#### WRIT OF SUMMONS.

#### I.—*Generally.*

**Writs to be dated**

3. Every writ of summons and also (unless otherwise provided) every other writ shall bear the date of the day on which the same is issued.

**Time for return of writ** (*2*) When the defendant resides in the judicial district whence the writ of summons issued the writ shall be returnable after the expiration of twenty days from the service upon the defendant.

(*3*) When the defendant resides in a judicial district other than that in which the writ issued the writ shall be returnable after the expiration of twenty-five days from the service thereof:

**May be shortened** Provided that the judge may by order shorten the time for the return of such writ. C. O. 21, R. 3.

### II.—*Concurrent Writ.*

**Defendants residing in different judicial districts** 4. When in any action there are two or more defendants, one or more residing in the judicial district whence the writ issues and the other or others residing in another judicial district, a concurrent writ may issue for service on the defendant or defendants residing in such other judicial district and such concurrent writ shall be returnable after the expiration of twenty-five days from the service thereof:

**Proviso** Provided that the judge may by order shorten the time for the return of such writ or may order that service of the original writ upon all the defendants shall in such case be sufficient. C. O. 21, R. 4.

**Writ concurrent to original** 5. The plaintiff in any action may at the time of or at any time within twelve months after the issuing of the original writ of summons issue one or more concurrent writ or writs each concurrent writ to show date of the original writ and be marked with the word "concurrent" in the margin and the date of issuing the concurrent writ:

Provided always that such concurrent writ or writs shall only be in force for the period during which the original writ in such action shall be in force.

**Concurrent writ for service *ex juris*** (*2*) When after writ is issued it is made to appear that the defendant or one of several defendants is without the Territories on application as is hereinafter provided for service out of the jurisdiction the judge may order a concurrent writ to issue. C. O. 21, R. 5.

### III.—*Renewal.*

**Duration of writ** 6. No original writ of summons shall be in force for more than twelve months from the date thereof including the day of such date; but if any defendant therein named shall not have been served therewith the plaintiff may before the expiration of the twelve months apply to the judge for leave to renew the writ and the judge if satisfied that reasonable efforts have been made to serve such defendant or for other good reason may order that the original or concurrent writ of summons (or both) be renewed for six months from the date of such renewal inclusive and so from time to time during the currency of the renewed writ; and the writ shall in such case be renewed by being marked with the day, month and year of such renewal and shall be so marked by the clerk upon the plaintiff or his advocate filing the judge's order and presenting to him the said writ; and a writ of summons so renewed shall remain in force and be available to prevent the operation of any statute whereby the time for the commencement of the action may be limited and for all other purposes from the date of the issuing of the original writ of summons. [E. 45.] C. O. 21, R. 6.

Application for renewal

7. The production of a writ of summons purporting to have been renewed in manner aforesaid shall be sufficient evidence of the writ having been so renewed and of the commencement of the action as of the first date of such renewed writ for all purposes. [E. 46.] C. O. 21, R. 7.

Evidence of renewal and commencement of action

IV.—*Lost Writ.*

8. Where a writ of which the production is necessary has been lost the judge upon being satisfied of the loss and of the correctness of a copy thereof may order that such copy shall be sealed and used in lieu of the original writ. [E. 47.] C. O. 21, R. 8.

Copy may be sealed

V.—*Indorsement by Advocate.*

9. The advocate of a plaintiff suing by an advocate shall indorse on the writ the address of the plaintiff and also his own name or firm and place of business and also, if his place of business shall be more than three miles from the clerk's office whence the writ issues, another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents, proceedings and written communications in the suit may be left for him; and when a plaintiff sues in person he shall indorse on the writ his occupation and place of residence and if his residence be more than three miles from the clerk's office as aforesaid another proper place within such three miles to be called his "address for service," where statements of defence, notices, summonses, orders and other documents,

Indorsement on writ by advocate

Plaintiff suing in person

Address for service

Omission to supply

proceedings and written communications in the suit may be left for him. In case of the omission to supply an address for service as aforesaid all papers requiring service may be posted in the clerk's office and in such case be deemed good service. [E. 19.] C. O. 21, R. 9.

Disclosure by advocate whose name is indorsed

10. Every advocate whose name is signed to or indorsed on any writ of summons shall on demand in writing made by or on behalf of any defendant who has been served therewith or has appeared thereto declare forthwith whether such writ has been issued by him or with his authority or privity and on declaration by such advocate that the writ was not issued by him or with his authority or privity all proceedings upon the same shall be stayed and no further proceedings shall be taken thereupon without leave of the judge. C. O. 21, R. 10.

### VI.—*Change of Advocate.*

Notice of change of advocate

11. A party suing or defending by an advocate may change his advocate in any cause or matter without an order for that purpose upon notice of such change being filed in the clerk's office in which the cause or matter is proceeding; but until such notice is filed and a copy thereof served the former advocate shall be considered the advocate of the party until the final conclusion of the cause or matter. [E. 44.] C. O. 21, R. 11.

Employment of advocate after proceeding in person

12. Where a party after having sued or appeared in person has given notice in writing to the opposite party or his advocate through an advocate that such advocate is authorised to act in the cause or matter on his behalf all writs, notices, pleadings, summonses, orders, warrants and other documents, proceedings and written communications which ought to be delivered to or served upon the party on whose behalf the notice is given shall thereafter be delivered to or served upon such advocate. C. O. 21, R. 12.

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## ORDER III.

### SERVICE OF WRIT OF SUMMONS.

### I.—*Generally.*

Service by whom

13. Service of a writ of summons may be made by the sheriff, his deputy or bailiff or by any literate person other

than a plaintiff but except by order of a judge no fees for service shall in such latter case be allowed. C. O. 21, R. 13. **Fees**

14. Service of writ of summons shall be effected by copy as follows: **Manner of service**

*1.* By personal service anywhere in the Territories; **Personal**

*2.* In case any defendant is out of the Territories but has an agent, managing clerk or other representative resident and carrying on his business within the same service of the writ of summons may be made on such agent, managing clerk or other representative; **On representative of absent defendant**

*3.* Every writ of summons issued against a corporation and all other proceedings in an action against a corporation may be served on the president or other head officer or on the cashier, manager, treasurer, secretary, clerk, agent or other representative by whatsoever name or title he be known of such corporation or of any branch or agency thereof in the Territories; and every person who within the said Territories transacts or carries on any business of or for any corporation whose chief place of business is without the said Territories shall for the purpose of being served with a writ of summons or any other proceedings as aforesaid in an action against or at the suit of such corporation be deemed the agent thereof; **Corporation**

*4.* Where persons are sued as partners in the name of their firm the writ shall be served either upon any one or more of the partners or at the principal place within the Territories of the business of the partnership upon any person having at the time of service the control or management of the partnership business there and such service shall be deemed good service upon the firm; [E. 648c.] **Partnerships**

*5.* Where one person carrying on business in the name of a firm apparently consisting of more than one person shall be sued in the firm name the writ may be served at the principal place within the Territories of the business so carried on upon any person having at the time of service the control or management of the business there and such service if sufficient in other respects shall be deemed good service on the person so sued whether any of the members thereof are out of the jurisdiction or not and no leave to issue a writ against them shall be necessary; [E. 648b.] **Defendant carrying on business under a firm name**

*6.* Service of a writ of summons in an action to recover possession of land may in case of vacant possession when it cannot be otherwise effected, by leave of the judge be made by **Recovery of land**

Vacant possession

posting a copy of the writ and statement of claim upon the door of the dwelling house or other conspicuous part of the premises; [E. 56.]

Husband and wife

7. When husband and wife are both defendants to the action they shall both be served unless the judge shall otherwise order;

Infant defendant

8. When an infant is a defendant to the action service on his father or guardian or if none then upon the person with whom the infant resides or under whose care he is shall unless the judge otherwise orders be deemed good service on the infant:

Provided that the judge may order that service made or to be made on the infant shall be deemed good service;

Lunatic

9. When a lunatic or person of unsound mind is a defendant to the action service may be made as the judge may order. C. O. 21, R. 14.

II.—*Substitutional Service.*

Substitutional service

15. In any case if it be made to appear to a judge that the plaintiff is from any cause unable to effect prompt personal service the judge may make such order for substituted or other service by advertisement or otherwise as may be just. C. O. 21, R. 15.

Original writ served instead of copy

16. In any case if it be made to appear to a judge that the original writ has been served upon the defendant instead of a copy he may order that such service be good service and may in such order dispense with the production of such original. C. O. 21, R. 16.

III.—*Indorsement of Service Unnecessary.*

Indorsement of service unnecessary

17. It shall not be necessary for the person serving a writ of summons to indorse on the writ the day of the week and month of such service but the writ and statement of claim shall each be marked as an exhibit to the affidavit of service by the person administering the oath. C. O. 21, R. 17.

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## ORDER IV.

### SERVICE OUT OF THE JURISDICTION.

Service out of jurisdiction when allowed

18. Service of a writ of summons on a defendant out of the Territories may be allowed by a judge whenever:

*1.* The whole subject matter of the action is land situate within the judicial district in which the action is to be brought (with or without rents or profits); or

*2.* Any act, deed, will, contract, obligation or liability effecting land or hereditaments situate within the judicial district the action is to be commenced in is sought to be construed, rectified, set aside or enforced in the action; or

*3.* Any relief is sought against any person domiciled or ordinarily resident within the jurisdiction; or

*4.* The action is for the administration of the estate of any deceased person who at the time of his death was domiciled within the judicial district or for the execution (as to property the whole or some part of which is within such district) of the trusts of any written instrument of which the person to be served is a trustee which ought to be executed according to the laws of the Territories; or

*5.* The action is for the recovery of any debt contracted within the jurisdiction or is founded on any breach or alleged breach within the jurisdiction of any contract wherever made which acording to the terms thereof ought to be performed within such jurisdiction or is founded on a tort committed within the jurisdiction; or

*6.* An injunction is sought as to anything to be done within the jurisdiction or any nuisance within the jurisdiction is sought to be prevented or removed whether damages are or are not also sought in respect thereof; or

*7.* Any person out of the jurisdiction is a necessary or proper party to an action properly brought against some other person duly served within the jurisdiction; or

*8.* The action is upon a foreign judgment and it is proved to the satisfaction of a judge that the defendant has assets within the North-West Territories; or

*9. The action is for any other matter and it appears to the satisfaction of the judge that the plaintiff has good cause of action against the defendant upon a contract or judgment and that the defendant has assets in the Territories of the value of $200 at least which may be rendered liable for the satisfaction of the judgment in case the plaintiff should recover judgment in the action; but in such case if the defendant does not appear the court or a judge shall give directions from time to time as to the manner and conditions of proceeding in the action and shall require the plaintiff before obtaining judgment to prove his claim before a judge or jury or in such manner as may seem proper.* C. O. 21, R. 18 amend. by c. 10 of 1901, s. 2.

Application for leave

19. Every application for leave to serve such writ of summons on a defendant out of the jurisdiction shall be before writ issued except as hereinbefore provided for and supported by affidavit stating that in the belief of the deponent the plaintiff has a good cause of action and showing in what place or country the defendant is or probably may be found and the grounds on which the application is made; but no such leave shall be granted unless it shall be made sufficiently to appear to the judge that the case is a proper one for service out of the Territories aforesaid. C. O. 21, R. 19.

Time for appearance

20. Any order giving leave to effect such service shall limit a time after such service within which such defendant is to enter an appearance such time to depend on the place or country where or within which the writ is to be served. [E. 68.] C. O. 21, R. 20.

Substitutional service

21. In any such case if it be made to appear to a judge that service as ordered out of the jurisdiction cannot be made and that reasonable efforts (showing them) have been made to effect such service the judge may make an order for substitutional service by advertisement or otherwise as may seem proper. C. O. 21, R. 21.

Substitutional service where defendant's whereabouts unknown

Judgment by default

Proof of claim

22. In any case if it be made to appear to the judge that the whereabouts of the defendant is unknown after all reasonable efforts have been exhausted to ascertain them the judge may in any action affecting land in the Territories or in any other case in which he deems it proper dispense with any order for service out of the jurisdiction and make such order for service of the writ by advertisement or otherwise as he may deem proper subject to such terms and conditions as may be necessary to protect the defendant from injustice; but judgment shall not be entered on default of appearance in any such case until the judge is satisfied by such proof as he may require of the justice of the claim. C. O. 21, R. 22.

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## ORDER V.

### SERVICE OF OTHER PROCEEDINGS.

Service of notices, pleadings, etc.

23. Where personal service of any notice, pleading, order, summons, warrant or other document, proceeding or written communication is required the service shall be effected as nearly as may be in the manner prescribed for the personal service of a writ of summons. C. O. 21, R. 23.

24. Where personal service of any notice, pleading, summons, order, warrant or other document, proceeding or written communication is required and it is made to appear to the court or a judge that prompt personal service cannot be effected the court or the judge may make such order for substituted or other service or for the substitution for service of notice by letter, public advertisement or otherwise as may be just. C. O. 21, R. 24. **Substitutional service of notices, etc.**

25. Admissions and acceptances of service of papers and documents purporting to be signed by or on behalf of an advocate need not be verified by affidavit but shall be accepted as *prima facie* proof. C. O. 21, R. 25. **Admissions of service on advocates**

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## ORDER VI.

### PARTIES.

### I.—*Generally.*

26. All persons in whom the right to any relief claimed is alleged to exist may be joined as plaintiffs whether jointly, severally or in the alternative; and judgment may be given for such one or more of the plaintiffs as may be found to be entitled to relief for such relief as he or they may be entitled to without any amendment but the defendant though unsuccessful shall be entitled to his costs occasioned by so joining any person who shall not be found entitled to relief unless the judge in disposing of the costs shall otherwise direct. [E. 123.] C. O. 21, R. 26. **Plaintiffs claiming jointly serverally or in the alternative**

27. Where an action has been commenced in the name of the wrong person as plaintiff or where it is doubtful whether it has been commenced in the name of the right plaintiff the judge may if satisfied that it has been so commenced through a *bona fide* mistake and that it is necessary for the determination of the real matter in dispute so to do order any other person to be substituted or added as plaintiff upon such terms as may be just. [E. 124.] C. O. 21, R. 27. **Wrong person named as plaintiff**

28. Where in any action any person has been improperly or unnecessarily joined as a coplaintiff and a defendant has set up a counterclaim or set off he may obtain the benefit thereof by establishing his set off or counterclaim as against the parties **Misjoinder of plaintiff** **Counterclaim**

other than the coplaintiff so joined notwithstanding the misjoinder of such plaintiff or any proceeding consequent thereon. [E. 125.] C. O. 21, R. 28.

Joinder of defendants

29. All persons may be joined as defendants against whom the right to any relief is alleged to exist whether jointly, severally or in the alternative; and judgment may be given against such one or more of the defendants as may be found to be liable according to their respective liabilities without any amendment. [E. 126.] C. O. 21, R. 29.

Defendant need not be interested in all relief claimed

30. It shall not be necessary for every defendant to be interested as to all the relief prayed for or as to every cause of action included in any proceedings against him; but the judge may make such order as may appear just to prevent any defendant from being embarrassed or put to expense by being required to attend any proceedings in which he may have no interest. [E. 127.] C. O. 21, R. 30.

Joinder of persons severally liable

31. The plaintiff may at his option join as parties to the same action all or any of the persons severally or jointly and severally liable on any one contract including parties to bills of exchange and promissory notes. [E. 128.] C. O. 21, R. 31.

Plaintiff in doubt as to person liable

32. Where the plaintiff is in doubt as to the person from whom he is entitled to redress he may by leave of the judge on *ex parte* application join two or more defendants to the intent that the question as to which if any of the defendants is liable and to what extent may be determined as between all parties. [E. 129.] C. O. 21, R. 32.

Trustees, etc., may sue and be sued as representatives

33. Trustees, executors and administrators may sue and be sued on behalf of or as representing the property or estate of which they are trustees or representatives without joining any of the persons beneficially interested in the trust or estate and shall be considered as representing such persons; but the judge may at any stage of the proceedings order any such persons to be made parties either in addition to or in lieu of the previously existing parties.

(*2*) If the plaintiff sues or the defendant is sued in a representative capacity the statement of claim shall show in what capacity the plaintiff or defendant sues or is sued as the case may be. [E. 130.] C. O. 21, R. 33.

Suit or defence by one person for class

34. Where there are numerous persons having the same interest in one cause or matter one or more of such persons may

sue or be sued or may be authorised by the judge to defend in such cause or matter on behalf or for the benefit of all persons so interested. [E. 131.] C. O. 21, R. 34.

**Misjoinder or nonjoinder not to defeat cause**

**Striking out or adding parties**

35. No cause or matter shall be defeated by reason of the misjoinder or nonjoinder of parties and the judge may in every cause or matter deal with the matter in controversy so far as regards the rights and interests of the parties actually before him. The judge may at any stage of the proceedings either upon or without the application of either party and on such terms as may appear just order that the names of any parties improperly joined whether as plaintiffs or defendants be struck out and that the names of any parties whether plaintiffs or defendants who ought to have been joined or whose presence in the cause may be necessary in order to enable the judge to effectually and completely adjudicate upon and settle all the questions involved in the cause or matter be added. Every party whose name is so added as a defendant shall be served with a summons or notice in such manner as the judge may order and the proceedings as against such party shall be deemed to have begun only on the service of such summons or notice. [E. 133.] C. O. 21, R. 35.

**Applications as to parties**

36. Any application to add or to strike out or substitute a plaintiff or defendant may be made to the judge at any time before trial supported by affidavit or at the trial of the action in a summary manner. [E. 134.] C. O. 21, R. 36.

### II.—*Partners.*

**Suits in firm name**

**Disclosure of names of partners**

37. Any two or more persons claiming or being liable as copartners and carrying on business within the jurisdiction may sue or be sued in the name of the respective firms if any of which such persons were copartners at the time of the accruing of the cause of action; and any party to an action may in such case apply by summons to a judge for a statement of the names and addresses of the persons who were at the time of the accruing of the cause of action copartners in any such firm to be furnished in such manner and verified on oath or otherwise as the judge may direct.

(*2*) Any person carrying on business in the name of a firm apparently consisting of more than one person may be sued in the name of such firm. [E. 648*a* and 648*b*.] C. O. 21, R. 37.

**Plaintiff firm, demand for names of persons composing**

38. When a writ is sued out by partners in the name of their firm the plaintiffs or their advocates shall on demand in writing by or on behalf of any defendant forthwith declare in

Default in furnishing

Effect when furnished

writing the names and places of residence of all the persons constituting the firm on whose behalf the action is brought; and if the plaintiffs or their advocates shall fail to comply with such demand all proceedings in the action may upon an application for that purpose be stayed upon such terms as the court or a judge may direct; and when the names of the partners are so declared the action shall proceed in the same manner and the same consequences in all respects shall follow as if they had been named as the plaintiffs in the writ; but all the proceedings shall nevertheless continue in the name of the firm. [E. 648*b*.] C. O. 21, R. 38.

Service on partnerships

39. Where persons are sued as partners in the name of their firm the writ shall be served either upon any one or more of the partners or at the principal place within the jurisdiction of the business of the partnership upon any person having at the time of service the control or management of the partnership business there; and subject to these rules such service shall be deemed good service upon the firm so sued whether any of the members thereof are out of the jurisdiction or not and no leave to issue a writ against them shall be necessary:

Proviso when dissolved

Provided that in the case of a copartnership which has been dissolved to the knowledge of the plaintiff before the commencement of the action the writ of summons shall be served upon every person within the jurisdiction sought to be made liable. [E. 648*c*.] C. O. 21, R. 39.

Notice of capacity in which person served

40. When a writ is issued against a firm and is served as directed every person upon whom it is served shall be informed by notice in writing given at the time of such service whether he is served as a partner or as a person having control or management of the partnership business or in both characters. In default of such notice the person served shall be deemed to be served as a partner. [E. 648*d*.] C. O. 21, R. 40.,

Appearance by partners

41. Where persons are sued as partners in the name of their firm they shall appear individually in their own names; but all subsequent proceedings shall nevertheless continue in the name of the firm. [E. 648*e*.] C. O. 21, R. 41.

Writ served on representative Appearance

42. Where a writ is served upon a person having the control or management of the partnership business no appearance by him shall be necessary unless he is a member of the firm sued. [E. 648*f*.] C. O. 21, R. 42.

Appearance under protest of person served as partner

43. Any person served as a partner may enter an appearance under protest denying that he is a partner; but such

appearance shall not preclude the plaintiff from otherwise serving the firm and obtaining judgment against the firm in default of appearance if no partner has entered an appearance in the ordinary form. [E. 648*g*.] C. O. 21, R. 43.

### III.—*Administration and Execution of Trusts.*

**Determination of right of unascertained heirs at law, next of kin or class**

44. In any case in which the right of an heir-at-law or the next of kin or a class shall depend upon the construction which the court or a judge may put upon an instrument and it shall not be known or shall be difficult to ascertain who is or are such heir-at-law or next of kin or class and the court or judge shall consider that in order to save expense or for some other reason it will be convenient to have the questions of construction determined before such heir-at-law, next of kin or class shall have been ascertained by means of inquiry or otherwise the court or judge may appoint some one or more persons to represent such heir-at-law, next of kin or class and the judgment of the court or judge in the presence of such persons shall be binding upon the heir-at-law, next of kin or class so represented. [E. 154.] C. O. 21, R. 44.

**Administration, rights of residuary legatee and next of kin**

45. Any residuary legatee or next of kin entitled to a judgment or order for the administration of the personal estate of a deceased person may have the same without serving the remaining residuary legatees or next of kin. [E. 155.] C. O. 21, R. 45.

**Persons interested in proceeds of land**

46. Any legatee interested in a legacy charged upon land and any person interested in the proceeds of land directed to be sold and who may be entitled to a judgment or order for the administration of the estate of a deceased person may have the same without serving any other legatee or person interested in the proceeds of the estate. [E. 156.] C. O. 21, R. 46.

**Residuary devisees or heirs**

47. Any residuary devisee or heir entitled to the like judgment or order may have the same without serving any coresiduary devisee or coheir. [E. 157.] C. O. 21, R. 47.

***Cestuis qui trustent***

48. Any one of several *cestuis qui trustent* under any deed or instrument entitled to a judgment or order for the execution of the trusts of the deed or instrument may have the same without serving any other *cestui qui trust*. [E. 158.] C. O. 21, R. 48.

Protection of property

49. In all cases of actions for the prevention of waste or otherwise for the protection of property one person may sue on behalf of himself and all persons having the same interest. [E. 159.] C. O. 21, R. 49.

Executor, administrator, trustee

50. Any executor, administrator or trustee entitled thereto may have a judgment or order against any one legatee, next of kin or *cestui qui trust* for the administration of the estate or the execution of the trusts. [E. 160.] C. O. 21, R. 50.

Conduct of proceedings

51. The court or a judge may require any person to be made a party to any action or proceeding and may give the conduct of the action or proceeding to such person as he may think fit and may make such order in any particular case as he may think just for placing the defendant on the record on the same footing in regard to costs as other parties having a common interest with him in the matters in question. [E. 161.] C. O. 21, R. 51.

Costs

Judgments or orders

52. Wherever in any action for the administration of the estate of a deceased person or the execution of the trusts of any deed or instrument or for the partition or sale of any hereditaments a judgment or an order has been pronounced or made affecting the rights or interests of persons not parties to the action the court or judge may direct that any persons interested in the estate or under the trust or in the land shall be served with notice of the judgment or order; and after such notice such persons shall be bound by the proceedings in the same manner as if they had originally been made parties and shall be at liberty to attend the proceedings under the judgment or order. Any person so served may within one month after such service apply to the court or judge to discharge, vary or add to the judgment or order. [E. 162.] C. O. 21, R. 52.

Service on persons not parties but interested

Appearance by

53. It shall not be necessary for any person served with notice of any judgment or order to obtain an order for liberty to attend the proceedings under such judgment or order but such person shall be at liberty to attend the proceedings upon entering an appearance in the clerk's office in the same manner and subject to the same provisions as a defendant entering an appearance. [E. 163.] C. O. 21, R. 53.

Entry to be made of service

54. A memorandum of the service upon any person of notice of the judgment or order in any action under the next but one preceding section shall be entered in the clerk's office upon due proof by affidavit of such service and notice of a judgment or

Indorsement on notice of judgment

order served pursuant to such rule shall be entitled in the action and there shall be indorsed thereon a memorandum in the following form:

> Take notice that from the time of the service of this notice you (*or as the case may be,* the infant *or* person of unsound mind) will be bound by the proceedings in the above cause in the same manner as if you (*or* the said infant *or* person of unsound mind) had been originally made a party and that you (*or* the said infant *or* person of unsound mind) may on entering an appearance at the clerk's office attend the proceedings under the within mentioned judgment (*or* order) and that you (*or* the said infant *or* person of unsound mind) may within one month after the service of this notice apply to the court to discharge, vary or add to the judgment (*or* order). [E. 164 and 165.] C. O. 21, R. 54.

Service on person under disability

55. Notice of a judgment or order on an infant or person of unsound mind not so found by inquisition shall be served in the same manner as a writ of summons in an action. [E. 166.] C. O. 21, R. 55.

Execution of trusts of will

Parties

56. In any cause or matter to execute the trusts of a will it shall not be necessary to make the heir-at-law a party but the plaintiff shall be at liberty to make the heir-at-law a party where he desires to have the will established against him. [E. 167.] C. O. 21, R. 56.

Where no legal personal representative court may dispense with or appoint representative

57. If in any cause, matter or other proceeding it shall appear to the court or a judge that any deceased person who was interested in the matter in question has no legal personal representative the court or judge may proceed in the absence of any person representing the estate of the deceased person or may appoint some person to represent his estate for all the purposes of the cause, matter or other proceeding on such notice to such person (if any) as the court or judge shall think fit either specially or generally by public advertisement and the order so made and any order consequent thereon shall bind the estate of the deceased person in the same manner in every respect as if a duly constituted legal personal representative of the deceased had been a party to the cause, matter or proceeding. [E. 168.] C. O. 21, R. 57.

Administration

58. In any cause or matter for the administration of the estate of a deceased person no party other than the executor or administrator shall unless by leave of the court or a judge be

Appearance at chambers in respect of creditors' claims

entitled to appear either in court or in chambers on the claim of any person not a party to the cause or matter against the estate of the deceased person in respect of any debt or liability. The court or a judge may direct or give liberty to any other party to the cause or matter to appear either in addition to or in the place of the executor or administrator upon such terms as to costs or otherwise as they or he shall think fit. [E. 169.] C. O. 21, R. 58.

### IV.—*Constitutional Questions.*

Questions raised involving validty of Ordinances

Notice to attorney general

59. Whenever in any cause, matter or proceeding depending in the supreme court any question is raised as to the validity or constitutionality of any Ordinance of the Territories or whenever it is sought to have any Ordinance of the Territories declared or held *ultra vires* the party so raising or intending to raise such question shall forthwith give notice to the attorney general for the Territories accompanied by a copy of the pleadings or such other documents as may be necessary to clearly indicate the circumstances under which such question arises; and the attorney general or his agent shall be entitled to intervene and to be heard on the argument of such question; and whenever it appears to the court or judge that any such question arises in any cause, matter or proceeding the court or judge shall not decide such question until the attorney general is so notified (or as the court or judge may direct) and given an opportunity of being heard by the court or judge by himself or his agent. C. O. 21, R. 59.

### V.—*Third Party Procedure.*

Notice to third party

Filing and service

60. Where a defendant claims to be entitled to contribution or indemnity over against any person not a party to the action he may by leave of the court or a judge to be obtained *ex parte* issue a notice (hereinafter called the third party notice) to that effect stamped with the seal with which writs of summons are sealed; a copy of such notice shall be filed with the clerk and served on such person according to the rules relating to the service of writ of summons. The notice shall state the nature and grounds of the claim and shall unless otherwise ordered by the court or a judge be served within the time limited for delivering his defence and therewith shall be served a copy of the statement of claim and a copy of the writ of summons in the action. [E. 170.] C. O. 21, R. 60.

Appearance of third party

61. If a person not a party to the action who is served as mentioned in the preceding rule (hereinafter called the third

party) desires to dispute the plaintiff's claim in the action as against the defendant on whose behalf the notice has been given or his own liability to the defendant the third party must enter an appearance in the action within ten days from the service of the notice. In default of his so doing he shall be deemed to admit the validity of the judgment obtained against such defendant whether obtained by consent or otherwise and his own liability to contribute or indemnify as the case may be to the extent claimed in the third party notice:

Admission by nonappearance

Provided always that a person so served and failing to appear within the said period of ten days may apply to the court or a judge for leave to appear and such leave may be given upon such terms if any as the court or judge shall think fit. [E. 171.] C. O. 21, R. 61.

Leave to appear after default

Defendant suffering judgment by default

62. Where a third party makes default in entering an appearance in the action in case the defendant giving the notice suffer judgment by default he shall be entitled at any time after satisfaction of the judgment against himself or before such satisfaction by leave of the court or a judge to enter judgment against the third party to the extent of the contribution or indemnity claimed in the third party notice:

Rights against third party

Provided that it shall be lawful for the court or a judge to set aside or vary such judgment upon such terms as may seem just. [E. 172.] C. O. 21, R. 62.

Plaintiff succeeding Judgment for defendant against nonappearing third party

63. Where a third party makes default in entering an appearance in the action in case the action is tried and results in favour of the plaintiff the judge who tries the action may at or after the trial order the entry of such judgment as the nature of the case may require for the defendant giving the notice against the third party:

Proviso as to issue of execution

Provided that execution thereof be not issued without leave of the judge until after satisfaction by such defendant of the verdict or judgment against him; and if the action is finally decided in the plaintiff's favour otherwise than by trial the court or a judge may on application by motion or summons as the case may be order such judgment as the nature of the case may require to be entered for the defendant giving the notice against the third party at any time after satisfaction by the defendant of the amount recovered by the plaintiff against him. [E. 173.] C. O. 21, R. 63.

Third party appearing

64. If a third party appears pursuant to the third party notice the defendant giving the notice or such third party may apply to the court or a judge for directions and the court or

Application for directions judge upon the hearing of such application may if satisfied that there is a question proper to be tried as to the liability of the third party to make the contribution or indemnity claimed in whole or in part order the question of such liability as between the third party and the defendant giving the notice to be tried in such manner at or after the trial of the action as the court or judge may direct; and if not so satisfied may order such judgment as the nature of the case may require to be entered in favour of the defendant giving the notice against the third party. [E. 174.] C. O. 21, R. 64.

What directions may be given

65. The court or judge upon the hearing of the application mentioned in the preceding rule may if it shall appear desirable to do so give the third party liberty to defend the action upon such terms as may be just or to appear at the trial and take such part therein as may be just and generally may order such proceedings to be taken, documents to be delivered or amendments to be made and give such directions as to the court or judge shall appear proper for having the question most conveniently determined and as to the mode and extent in or to which the third party shall be bound or made liable by the judgment in the action. [E. 175.] C. O. 21, R. 65.

Costs

66. The court or a judge may decide all questions of costs as between a third party and the other parties to the action and may order any one or more to pay the costs of any other or others or give such directions as to costs as the justice of the case may require. [E. 176.] C. O. 21, R. 66.

Defendant claiming against codefendant

67. Where a defendant claims to be entitled to contribution or indemnity against any other defendant to the action a notice may be issued and the same procedure shall be adopted for the determination of such questions between the defendants as would be issued and taken against such other defendant if such last mentioned defendant were a third party; but nothing herein contained shall prejudice the rights of the plaintiff against any defendant in the action. [E. 177.] C. O. 21, R. 67.

Plaintiff not to be delayed by questions between defendants

68. A plaintiff is not to be unnecessarily delayed in recovering his claim by reason of the questions between defendants in which the plaintiff is not concerned; and the judge is to give such direction as may be necessary to prevent such delay of the plaintiff where this can be done on terms or otherwise without injustice to the defendants. C. O. 21, R. 68.

### VI.—*Change of Parties.*

**No abatement where cause of action continues**

**Judgment where death after verdict**

69. A cause or matter shall not become abated by reason of the marriage, death or insolvency of any of the parties if the cause of action survive or continue and shall not become defective by the assignment, creation or devolution of any estate or title *pendente lite;* and whether the cause of action survives or not there shall be no abatement by reason of the death of either party between the verdict or finding of the issues of fact and the judgment; but judgment may in such case be entered notwithstanding the death. [E. 178.] C. O. 21, R. 69.

**Adding parties successors in interest**

70. In case of the marriage, death or assignment or devolution of the estate by operation of law of any party to a cause or matter the judge may if it be deemed necessary for the complete settlement of all the questions involved order that the husband, personal representative, trustee or other successor in interest if any of such party be made a party in such manner and on such terms as the judge shall think just and make such order for the disposal of the cause or matter as may be just. [E. 179.] C. O. 21, R. 70.

**Continuation of action where change of interest**

71. In case of an assignment, creation or devolution of any estate or title *pendente lite* the cause or matter may be continued by or against the person to or upon whom such estate or title has come or devolved. [E. 180.] C. O. 21, R. 71.

**Adding parties where change of interest**

72. Where by reason of marriage, death or assignment or any other event occurring after the commencement of a cause or matter and causing a change or transmission of interest or liability or by reason of any person interested coming into existence after the commencement of the cause or matter it becomes necessary or desirable that any person not already a party should be made a party or that any person already a party should be made a party in another capacity the judge may order that the proceedings shall be carried on between the continuing parties and such new party or parties in such manner and on such terms as may be thought proper. [E. 181.] C. O. 21, R. 72.

**Applications *ex parte***

73. Applications under rules 70 and 72 may be made *ex parte*. C. O. 21, R. 73.

**Service of order**

74. An order so obtained shall unless the court or judge shall otherwise direct be served upon the continuing party or parties or their advocates and also upon each such new party

unless the person making the application be himself the only new party and the order shall from the time of such service subject nevertheless to the next two rules be binding on the person served therewith and every person served therewith who is not already a party to the cause or matter shall be bound to enter an appearance thereto within the same time and in the same manner as if he had been served with a writ of summons. [E. 182.] C. O. 21, R. 74.

**Application to discharge order.**

75. Where any person who is under no disability or under no disability other than coverture or being under any disability other than coverture but having a guardian *ad litem* in the cause or matter shall be served with such order such person may apply to the court or judge to discharge or vary such order at any time within twelve days from the service thereof. [E. 183.] C. O. 21, R. 75.

**Application to discharge order**

76. Where any person being under any disability other than coverture and not having a guardian *ad litem* in the cause or matter is served with any such order such person may apply to the court or a judge to discharge or vary such order at any time within twelve days from the appointment of a guardian *ad litem* for such party and until such period of twelve days shall have expired such order shall have no force or effect as against such last mentioned person [E. 184.] C. O. 21, R. 76.

**Death of sole plaintiff or defendant.**

**Omission to proceed with cause**

77. When the plaintiff or defendant in a cause or matter dies and the cause of action survives but the person entitled to proceed fails to proceed on application of the defendant (or the person against whom the cause or matter may be continued) the judge may order the plaintiff (or the person entitled to proceed) to proceed within a given period and in default of such proceeding judgment may be entered for the defendant or as the case may be for the person against whom the cause or matter might have been continued. [E. 185.] C. O. 21, R. 77.

**Advocate for plaintiff to give notice of abatement, etc.**

78. Where any cause or matter becomes abated or in the case of any such change of interest as is by this order provided for the advocate for the plaintiff or person having the conduct of the cause or matter as the case may be shall certify the fact to the proper officer who shall cause an entry thereof to be made in the procedure book opposite to the name of such cause or matter. [E. 186.] C. O. 21, R. 78.

## ORDER VII.

### JOINDER OF CAUSES OF ACTION.

Uniting causes of action

79. A plaintiff may unite in the same action several causes of action; but if it appears to the judge that any such causes of action cannot be conveniently tried or disposed of together he may order separate trials of any such causes of action to be had or may make such other order as may be necessary or expedient for the separate disposal thereof or may order any such causes of action to be excluded and consequential amendments to be made. [E. 188 and 196.] C. O. 21, R. 79.

Disposal separately

## ORDER VIII.

### APPEARANCE.

Entry of appearance by defendant

80. Within the time limited for appearance by the writ of summons or afterwards before the plaintiff has taken any further step in the cause if the defendant or if there be more than one defendant in the action a defendant desires to contest the plaintiff's claim and defend the action he shall by himself or his advocate enter an appearance in the office of the clerk whence the writ of summons issued and within six days thereafter or such further time as may by order of the judge be allowed for the purpose file in the clerk's office a statement of defence and serve a copy thereof on the plaintiff or his advocate. C. O. 21, R. 80.

Filing and service of defence

Indorsement on appearance

81. Upon or with every appearance when entered a memorandum in writing shall be indorsed or attached giving the defendant's address or the address of his advocate if he defends by advocate; and if the defendant or his advocate resides over three miles from the clerk's office naming an address within three miles of the clerk's office where documents in the suit requiring service upon him may be left such place to be known and designated as his "address for service." [E. 80.] C. O. 21, R. 81.

Address for service

Service where no appearance or no address for service or false address

82. Where no appearance has been entered for a party all orders, notices, papers, documents in or relating to the action may unless otherwise ordered by a judge be served by posting up the same or a copy thereof in the clerk's office; and where the address mentioned in the next preceding rule be not given all such orders, notices, papers and documents may be served in like manner; but if an address is supplied and such address be illusory or fictitious the judge may on application of the plaintiff direct the manner in which such orders, notices, papers and documents may be served. C. O. 21, R. 82.

Recovery of land
Appearance by person not defendant

83. Any person not named as a defendant in a writ of summons in an action for the recovery of the possession of land, may by leave of the judge appear and defend on filing an affidavit showing that he is in possession of the land either by himself or by his tenant. [E. 95.] C. O. 21, R. 83.

Landlord to appear as such

84. Any person appearing to defend an action for the recovery of the possession of land as landlord in respect of property whereof he is in possession only by his tenant shall state in his appearance that he appears as landlord. [E. 96.] C. O. 21, R. 84.

Party obtaining leave to defend
subsequent proceedings

85. Where a person not named as defendant in any writ of summons for the recovery of the possession of land has obtained leave of the judge to appear and defend he shall comply with the provisions of this order in respect of defendants appearing and defending and in all subsequent proceedings be named as a party defendant. [E. 97.] C. O. 21, R. 85.

Defence may be limited to part of property

86. Any person appearing to a writ of summons for the recovery of the possession of land shall be at liberty to limit his defence to a part only of the property mentioned in the writ describing that part with reasonable certainty in his appearance and an appearance where the defence is not limited as above mentioned shall be deemed an appearance to defend for the whole. [E. 98.] C. O. 21, R. 86.

Application to set aside writ or service

87. A defendant before appearing shall be at liberty to apply to a judge to set aside the service of the writ upon him, to discharge or set aside the order authorising such service or to set aside the writ on the ground of irregularity or otherwise. [E. 100.] C. O. 21, R. 87.

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## ORDER IX.

### DEFAULT OF APPEARANCE.

Default of appearance by infant or person of unsound mind

88. Where no appearance has been entered to a writ of summons for a defendant who is an infant or a person of unsound mind not so found by inquisition the plaintiff shall before further proceeding with the action against the defendant apply to the court or a judge for an order that some proper person be assigned guardian of such defendant by whom he may appear and defend the action; but no such order shall be made unless it appears on the hearing of such application that

the writ of summons was duly served and that notice of such application was after the expiration of the time allowed for appearance and at least six clear days before the day in such notice named for hearing the application served upon or left at the dwelling house of the person with whom or under whose care such defendant was at the time of serving such writ of summons and also (in the case of such defendant being an infant not residing with or under the care of his father or guardian) served upon or left at the dwelling house of the father or guardian if any of such infant unless the court or judge at the time of hearing such application shall dispense with such last mentioned service. [E. 101.] C. O. 21, R. 88.

89. When any defendant fails to appear to a writ of summons and the plaintiff is desirous of proceeding upon default of appearance he shall before taking such proceeding upon default file the writ (or an order dispensing with such filing) with an affidavit of service or of compliance with any order for substitutional service as the case may be. [E. 102.] C. O. 21, R. 89.

Writ and affidavit of service to be filed

90. Where the plaintiff's claim is for a debt or liquidated demand only and the defendant fails or all the defendants if more than one fail to apear thereto the plaintiff may after the time limited for appearance has elapsed enter final judgment for any sum not exceeding the sum claimed in the action together with legal interest and costs of suit. [E. 103.] C. O. 21, R. 90.

Claim liquidated

91. Where the plaintiff's claim is for a liquidated demand and there are several defendants of whom one or more appear and another or others of them fails to appear the plaintiff may enter final judgment as in the preceding section against such as have not appeared and may issue execution upon such judgment without prejudice to his right to proceed with the action against such as have appeared. [E. 104.] C. O. 21, R. 91.

Liquidated demand

Several defendants

92. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and the defendant fails or all the defendants if more than one fail to appear on application of the plaintiff the judge may assess the value or amount of damages or either of them or order that they shall be ascertained in any way he may direct and judgment shall be entered thereupon with costs of suit. [E. 105.] C. O. 21, R. 92.

Claim, detinue and damages

Nonappearance

Striking out appearing defendants

93. Where in an action for detention of goods and pecuniary damages or either of them there is more than one defendant and one or more of such defendants have appeared while one or other of the defendants have not the judge on application of the plaintiff may order the striking out of any one or more of the defendants who has or have appeared on payment of costs or otherwise as may be considered just and allow the plaintiff to proceed with his action against the defendant or defendants who has or have not appeared. C. O. 21, R. 93.

Interlocutory judgment against nonappearing defendants

94. Where the plaintiff's claim is for detention of goods and pecuniary damages or either of them and there are several defendants of whom one or more appear to the writ and another or others of them fail to appear the plaintiff may sign interlocutory judgment against the defendant or defendants so failing to appear and on application of the plaintiff the value of the goods and the damages or either of them as the case may be shall be assessed as against the defendant or defendants failing to appear at the same time as the trial of the action or issue therein against the other defendant or defendants unless the judge shall otherwise direct. [E. 106.] C. O. 21, R. 94.

Claim, detinue and liquidated demand

95. When the plaintiff's claim is for detention of goods and pecuniary damages or either of them and also for a liquidated demand and any defendant fails to apear to the writ the plaintiff may enter final judgment for the debt or liquidated demand, interest and costs against the defendant or defendants failing to appear and proceed as mentioned in such of the rules of this order as may be applicable. [E. 107.] C. O. 21, R. 95.

Claim recovery of land

96. In case no appearance shall be entered in an action for the recovery of land within the time limited for appearance or if an apearance be entered but the defence be limited to part only the plaintiff shall be at liberty to enter a judgment that the person whose title is asserted in the writ shall recover possession of the land or of the part thereof to which the defence does not apply with or without costs as the judge may order. [E. 108.] C. O. 21, R. 96.

Claim, mesne profits, rent or damages and recovery of land

97. When the plaintiff's statement of claim is for mesne profits, arrears of rent or damages for breach of contract and also for the recovery of land he may enter judgment as in the last preceding rule mentioned for the land and may proceed as in the other preceding rules mentioned as to such other claim. [E. 109.] C. O. 21, R. 97.

**Claim: foreclosure, sale, redemption or administration**

98. Where the action is in respect of a mortgage, lien or charge and the plaintiff claims foreclosure or sale or redemption or where the action is for the administration of an estate or partition the plaintiff if the defendant does not appear shall be entitled to such a judgment upon such evidence as the judge may order. C. O. 21, R. 98.

**Judgment in other actions**

99. In any other action upon default of appearance by one or more defendants the plaintiff may apply *ex parte* to a judge for an order for judgment and the judge shall order such judgment to be entered as the plaintiff appears entitled to with or without evidence of the truth of the statement of claim (which may be given *viva voce* or by affidavit) in the discretion of the judge:

*Provided that no final judgment of nullity of marriage shall be entered (whether or not there is default of appearance or defence) until the court or judge is satisfied by evidence of the truth and sufficiency of the facts on which the claim for such judgment is founded.* C. O. 21, R. 99, 1901, c. 10, s. 3.

**Setting aside judgment by default**

100. Any judgment entered upon default of appearance or in delivering any pleading or in compliance with any order may be set aside or varied by the court or judge upon such terms as may be just. C. O. 21, R. 100.

**Where several defendants, some not served**

101. Where in an action there are several defendants of whom one or more have been served and another or others of them have not the court or judge may order the striking out of the defendant or defendants not served and allow the plaintiff to proceed with his action against the defendant or defendants served on payment of costs or otherwise as may be considered just. C. O. 21, R. 101.

**Setting aside or varying orders or judgments**

102. Any order made by the judge under any of the rules of this order and any judgment entered pursuant to such order may be set aside or varied by the judge or the court upon such terms as may be just. [E. 110.] C. O. 21, R. 102.

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## ORDER X.

### STRIKING OUT APPEARANCE.

**Application by plaintiff to strike out appearance where claim liquidated**

103. Where the action is brought to recover a debt or a liquidated demand and the defendant or one or more of the defendants if there are several defendants has or have appeared

the plaintiff or one of the plaintiffs if more than one may on affidavit of himself or of any other person who can swear positively to the facts verifying the cause of action and the amount claimed and stating that in his belief there is no defence to the action apply to the judge for leave to enter final judgment for the amount of the claim or the amount so verified as due the plaintiff together with interest (if any) and costs; and the judge may thereupon unless the defendant by affidavit or otherwise shall satisfy him that he has a good defence to the action on the merits or disclose such facts as may be deemed sufficient to entitle him to defend make an order empowering the plaintiff to enter judgment accordingly.

Judgment unless defence shown

Unliquidated demand included

(2) If on the hearing of the application under this rule it shall appear that a cause or causes of action other than for a debt or a liquidated demand have been joined therewith the judge may if he shall think fit forthwith amend the statement of claim by striking out such other cause or causes of action or may deal with such claims for debts or liquidated demands as if no other claim had been joined in the action and allow the action to proceed as respects the cause or causes of action other than for such debt or liquidated demand. [E. 115.] C. O. 21, R. 103.

Summons

Service

Affidavits

104. The application by the plaintiff under the last preceding rule shall be by summons. A copy of the summons and copies of affidavits and exhibits referred to therein (unless service of copies of such exhibits be dispensed with by the judge) shall be served at least four clear days before the summons is returnable. C. O. 21, R. 104.

Defendant may show cause

105. The defendant may show cause against such application by affidavit of himself or some one who can swear positively to the facts or by offering to bring into court the amount claimed in the action. If by affidavit such affidavit shall state whether the defence alleged goes to the whole or to part only and if so what part of the plaintiff's claim; and the judge may if he thinks fit order the defendant or whoever makes the affidavit on his behalf or in the case of a corporation any officer thereof to attend and be examined on oath and to produce any letters, books or documents or copies of or extracts therefrom. [E. 117.] C. O. 21, R. 105.

Cross examination

Defendant admitting or failing to meet application as to part

106. If it appears that the defence set up by the defendant applies only to a part of the plaintiff's claim or that any part of the claim is admitted the plaintiff may have judgment

forthwith for such part of his claim as the defence does not apply to or is admitted subject to such terms (if any) as to suspending execution or otherwise as the judge may order and the defendant may be allowed to defend as to the residue of the plaintiff's claim. [E. 118.] C. O. 21, R. 106.

**One defendant may be permitted to defend and judgment against other**

107. If it appears to the judge that any defendant has a good defence or ought to be permitted to defend the action and that any other defendant has not such defence and ought not to be permitted to defend the former may be permitted to defend and the plaintiff shall be entitled to have final judgment against the latter and have execution thereon without prejudice to his right to proceed with his action against the former. [E. 119.] C. O. 21, R. 107.

**Conditional leave to defend**

108. Leave to defend may be given unconditionally or subject to such terms as to giving security or time and mode of trial or otherwise as the judge may think fit. [E. 120.] C. O. 21, R. 108.

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## ORDER XI.

### PLEADING GENERALLY.

**Pleading to state facts only, not evidence**

**Paragraphing**

**Figures to be used**

109. Every pleading shall contain and contain only a statement in a summary form of the material facts on which the party relies for his claim or defence as the case may be but not the evidence by which they are to be proved and shall when necessary be divided into paragraphs numbered consecutively. Dates, sums and numbers shall be expressed in figures and not in words. [E. 200.] C. O. 21, R. 109.

**Set off and Counterclaim**

**Striking out**

**Proceeding with after claim disposed of**

110. A defendant in an action may set off or set up by way of counter-claim against the claims of the plaintiff any right or claim whether such set off or counterclaim sound in damages or not and such set off or counterclaim shall have the same effect as a cross action so as to enable the judge to pronounce a final judgment in the same action both on the orginal and cross claim; but the judge may on application of the plaintiff before trial if in his opinion such set off or counterclaim cannot be conveniently disposed of in the pending action or ought not to be allowed refuse permission to the defendant to avail himself thereof; and if in any case in which the defendant sets up a counterclaim the action of the plaintiff is stayed, discontinued or dismissed the counterclaim may nevertheless be proceeded with. [E. 199 and 249.] C. O. 21, R. 110.

Reply to counterclaim

111. Where a counterclaim is pleaded a reply thereto shall be subject to the rules applicable to statements of defence. [E. 276 and 279.] C. O. 21, R. 111.

Further particulars

112. A further and better statement of the nature of the claim or defence (or written proceeding requiring particulars) may in all cases be ordered upon such terms as may be just; but the order therefor shall not *per se* operate as a stay of proceedings or give any extension of time. [E. 203 and 204.] C. O. 21, R. 112.

Not guilty by statute

113. Nothing in this Ordinance shall affect the right of any defendant to plead not guilty by statute; but if the defendant so plead he shall not plead any other defence to the same cause of action without the leave of the judge and every plea of not guilty by statute shall have the same effect as a plea of not guilty by statute has heretofore had. [E. 208.] C. O. 21, R. 113

Allegations not denied admitted

114. Every allegation of fact in any pleading not being a petition or summons if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the opposing party shall be taken to be admitted except as against an infant, lunatic or person of unsound mind not so found judicially. [E. 209.] C. O. 21, R. 114.

Conditions precedent

115. Any condition precedent the performance or occurrence of which is intended to be contested shall be distinctly specified in his pleading by the plaintiff or defendant as the case may be; and subject thereto an averment of the performance or occurrence of all conditions precedent necessary for the case of the plaintiff or defendant shall be implied in his pleadings. [E. 210.] C. O. 21, R. 115.

All grounds of defence or answer to be raised

116. The defendant or plaintiff as the case may be must raise by his pleadings all matters which show the action or counterclaim not to be maintainable or that the transaction is either void or voidable in point of law and all such grounds of defence or reply as the case may be as if not raised would be likely to take the opposite party by surprise or would raise issues of fact not arising out of the preceding pleadings. [E. 211.] C. O. 21, R. 116.

Departure

117. No pleading not being a petition or summons shall except by way of amendment raise any new ground of claim or contain any allegation of fact inconsistent with the previous pleadings of the party pleading the same. [E. 212.] C. O. 21, R. 117.

**Denials must be specific**

118. It shall not be sufficient for a defendant in his statement of defence to deny generally the grounds alleged by the plaintiff's statement of claim or for the plaintiff in his reply to deny generally the grounds alleged in a defence by way of counterclaim but each party must deal specifically with each allegation of fact of which he does not admit the truth except damages. [E. 213.] C. O. 21, R. 118.

**Damages**

**Pleadings must answer point of substance and not be evasive**

119. When a party in pleading denies an allegation if fact in the previous pleading of the opposite party he must not do so evasively but answer the point of substance. Thus if it is alleged that he received a certain sum of money it shall not be sufficient to deny that he received that particular amount but he must deny that he received that sum or any part thereof or else set out how much he received. And if an allegation be made with divers circumstances it shall not be sufficient to deny it along with those circumstances. [E. 215.] C. O. 21, R. 119.

**Denial of contract**

120. When a contract, promise or agreement is alleged in any pleading a bare denial of the same by the opposite party shall be construed only as a denial of fact of the express contract, promise or agreement alleged or of the matters of fact from which the same may be implied by law and not as a denial of the legality or sufficiency in law of such contract, promise or agreement whether with reference to the Statute of Frauds or otherwise. [E. 216.] C. O. 21, R. 120.

**Effect of documents may be alleged**

121. Whenever the contents of any documents are material it shall be sufficient in any pleading to state the effect thereof as briefly as possible without setting out the whole or any part thereof unless the precise words of the documents or any part thereof are material. [E. 217.] C. O. 21, R. 121.

**Allegation of malice, fraud knowledge, etc.**

122. Whenever it is material to allege malice, fraudulent intention, knowledge or other condition of the mind of any person it shall be sufficient to allege the same as a fact without setting out the circumstances from which the same is to be inferred. [E. 218.] C. O. 21, R. 122.

**Allegation that person had notice**

123. Whenever it is material to allege notice to any person of any fact, matter or thing it shall be sufficient to allege such notice as a fact unless the form or the precise terms of such notice or the circumstances from which such notice is to be inferred to be material. [E. 219.] C. O. 21, R. 123.

Contract or relation implied from letters, etc.

124. Whenever any contract or any relation between any persons is to be implied from a series of letters or conversations or otherwise from a number of circumstances it shall be sufficient to allege such contract or relation as a fact and to refer generally to such letters, conversations or circumstances without setting them out in detail; and if in such case the person so pleading desires to rely in the alternative upon more contracts or relations than one as to be implied from such circumstances he may state the same in the alternative. [E. 220.] C. O. 21, R. 124.

Alternatives

Presumptions of law

125. Neither party need in any pleading allege any matter of fact which the law presumes in his favour or as to which the burden of proof lies upon the other side unless the same has first been specifically denied. [E. 221.] C. O. 21, R. 125.

Want of form

126. No technical objection shall be raised to any pleading on the ground of any alleged want of form. [E. 222.] C. O. 21, R. 126.

Unnecessary, scandalous or embarrassing matter

127. The judge may at any stage of the proceedings order to be struck out or amended any matter in any statement or pleading which may be unnecessary or scandalous or which may tend to prejudice, embarrass or delay the fair trial of the action with or without costs to be paid by the party so offending. [E. 223.] C. O. 21, R. 127.

Loss of negotiable instrument

128. In case of any action founded upon a bill of exchange or other negotiable instrument the judge may order that the loss of such instrument shall not be set up provided such indemnity as he approves of is given against the claims of any other person upon such negotiable instrument. C. O. 21, R. 128.

Pleadings written or printed

129. Every statement or pleading may be either printed or written or partly written and partly printed. [E. 205.] C. O. 21, R. 129.

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## ORDER XII.

### PAYMENT INTO AND OUT OF COURT AND TENDER.

Payment into court—
(1) as satisfaction
(2) with defence denying liability

130. Where any action is brought to recover a debt or damages any defendant may before or at the time of delivering his defence or at any later time by leave of the court or a judge pay into court a sum of money by way of satisfaction which

shall be taken to admit the claim or cause of action in respect of which the payment is made; or he may with a defence denying liability (except in actions or counterclaims for libel or slander) pay money into court which shall be subject to the provisions of rule 135 hereof. [E. 255.] C. O. 21, R. 130.

**Defence to state payment on**

131. Payment into court shall be signified in the defence and the claim or cause of action in satisfaction of which such payment is made shall be specified therein. [E. 256.] C. O. 21, R. 131.

**Tender before action**

132. With a defence setting up a tender before action the sum of money alleged to have been tendered must be brought into court. [E. 257.] C. O. 21, R. 132.

**Payment before delivery of defence, notice to be served**

133. If the defendant pays money into court before delivering his defence he shall serve upon the plaintiff a notice specifying both the fact that he has paid in such money and also the claim or cause of action in respect of which such payment has been made; and such notice shall be in the following form:

"Take notice that the defendant has paid into court $ ,and says that that sum is enough to satisfy the plaintiff's claim (*or* the plaintiff's claim for, &c)." [E. 258.] C.O. 21, R. 133.

**Payment out to plaintiff in certain cases**

134. In the following cases of payment into court under this section, viz.:

(*a*) When payment into court is made before delivery of defence;

(*b*) When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court is made is not denied in the defence;

(*c*) When payment into court is made with a defence setting up a tender of the sum paid;

the money paid into court shall be paid out to the plaintiff on his request or to his advocate on the plaintiff's written authority unless the court or a judge shall otherwise order. [E. 259.] C. O. 21, R. 134.

**Where defendant denies liability acceptance of sum paid in**

135. When the liability of the defendant in respect of the claim or cause of action in satisfaction of which the payment into court has been made is denied in the defence the following rules shall apply:

(*a*) The plaintiff may accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in in which case he shall be entitled to have the money paid out to him as hereinafter provided notwithstanding the defendant's denial of liability whereupon all further proceedings in respect of such claim or cause of action except as to costs shall be stayed; or the plaintiff may refuse to accept the money in satisfaction and reply accordingly in which case the money shall remain in court subject to the provisions hereinafter mentioned;

(*b*) If the plaintiff accepts the money so paid in he shall after service of such notice in the form following, viz.:

> "Take notice that the plaintiff accepts the sum of $ paid by you into court in satisfaction of the claim in respect of which it is paid in,"

or after delivery of a reply accepting the money be entitled to have the money paid out to himself on request or to his advocate on the plaintiff's written authority unless the court or a judge shall otherwise order;

**Payment in not accepted**

**Proceeding with suit**

(*c*) If the plaintiff does not accept in satisfaction of the claim or cause of action in respect of which the payment into court has been made the sum so paid in but proceeds with the action in respect of such claim or cause of action or any part thereof the money shall remain in court and be subject to the order of the court or a judge and shall not be paid out of court except in pursuance of an order. If the plaintiff proceeds with the action in respect of such calim or cause of action or any part thereof and recovers less than the amount paid into court the amount paid in shall be applied so far as is necessary in satisfaction of the plaintiff's claim and the balance (if any) shall under such order be repaid to the defendant. If the defendant succeeds in respect of such claim or cause of action the whole amount shall under such order be repaid to him. [E. 260.] C. O. 21, R. 135.

**Payment in before defence**

136. The plaintiff when payment into court is made before delivery of defence may within four days after the receipt of notice of such payment or when such payment is first signified in a defence may before reply accept in satisfaction of the claim

or cause of action in respect of which such payment has been made the sum so paid in in which case he shall give notice to the defendant in the form last mentioned and shall be at liberty in case the entire claim or cause of action is thereby satisfied to tax his costs after the expiration of four days from the service of such notice unless the court or a judge shall otherwise order and in case of nonpayment of the costs within forty-eight hours after such taxation to sign judgment for his costs so taxed. [E. 261.] C. O. 21, R. 136.

Acceptance in satisfaction

Notice thereof

Costs

137. Where money is paid into court in two or more actions which are consolidated and the plaintiff proceeds to trial in one and fails the money paid in and the costs in all the actions shall be dealt with under this order in the same manner as in the action tried. [E. 262.] C. O. 21, R. 137.

Consolidated actions

138. A plaintiff may in answer to a counterclaim pay money into court in satisfaction thereof subject to the like conditions as to costs and otherwise as upon payment into court by a defendant. [E. 263.] C. O. 21, R. 138.

Counterclaim

139. Money paid into court under an order of the court or a judge shall not be paid out of court except in pursuance of an order of the court or judge:

Payment out

Provided that where before the delivery of defence money has been paid into court by the defendant pursuant to an order under the provisions of rule 105 hereof he may (unless the court or a judge shall otherwise order) by his pleading appropriate the whole or any part of such money and any additional payment if necessary to the whole or any specified portion of the plaintiff's claim; and the money so appropriated shall thereupon be deemed to be money paid into court pursuant to the preceding rules of this order relating to money paid into court and shall be subject in all respects thereto. [E. 265.] C. O. 21, R. 139.

140. In any cause or matter in which a sum of money has been awarded to or recovered by an infant or person of unsound mind not so found by inquisition the court or a judge may at or after the trial order that the whole or any part of such sum shall be paid into court to the credit of an account intituled in the cause or matter; and any sum so paid into court and any dividends or interest thereon shall be subject to such orders as may from time to time be made by the court or a judge concerning the same and may either be invested or be paid out of court or transferred to such persons to be held and

Persons under disability

Moneys awarded to or recovered by

applied upon and for such trusts and in such manner as the court or a judge shall direct. [E. 269.] C. O. 21, R. 140.

Disposition of moneys or securities

141. Money paid into court or securities purchased under the provisions of the last preceding rule and the dividends or interest thereon shall be sold, transferred or paid out to the party entitled thereto pursuant to the order of the court or a judge. [E. 270.] C. O. 21, R. 141.

Jury not to be informed of payment into court

142. Where a cause or matter is tried by a judge with a jury no commuication to the jury shall be made until after the verdict is given either of the fact that money has been paid into court or of the amount paid in. The jury shall be required to find the amount of the debt or damages as the case may be without reference to any payment into court. [E. 275a.] C. O. 21, R. 142.

Investment of funds in court

143. Cash under the control of or subject to the order of the court may be invested in Dominion securities upon order of a judge. [E. 271.] C. O. 21, R. 143.

Banking moneys paid into court

144. All moneys paid into court shall so soon as received by a clerk or other proper official be deposited in one of the chartered banks of Canada to be named by the judge the same to be placed to a special account and styled "special account;" each deposit to reap the benefit of such rate of interest as the bank in which the deposit is made may agree to be paid to be from time to time added to the principal; and no moneys ordered to be paid out of court shall be withdrawn from the bank in which the same are deposited unless the cheque for withdrawal of the same is countersigned or initialled by the judge. C. O. 21, R. 144.

Conversion of securities, application for

145. Notice of every application for the purpose of conversion of any securities shall be served upon such persons if any as the court or judge may direct. [E. 272.] C. O. 21, R. 145.

## ORDER XIII.

### MATTERS ARISING PENDING THE ACTION.

Defence or reply to set off or counter-claim arisen after action

146. Any ground of defence which has arisen after action brought but before the defendant has delivered his statement of defence and before the time limited for his doing so has

expired may be raised by the defendant in his statement of defence either alone or together with other grounds of defence; and if after a statement of defence has been delivered any ground of defence arises to any set off or counterclaim alleged therein by the defendant it may be raised by the plaintiff in his reply either alone or together with any other ground of reply. [E. 278.] C. O. 21, R. 146.

Ground of defence or reply arisen after pleading

Further answer may be served

147. Where any ground of defence arises after the defendant has delivered his statement of defence or after the time limited for his doing so has expired the defendant may and where any ground of defence to any set off or counterclaim arises after reply or after the time limited for delivering a reply has expired the plaintiff may within eight days after such ground of defence has arisen or at any subsequent time by leave of the court or judge deliver a further defence or further reply as the case may be setting forth the same. [E. 279.] C. O. 21, R. 147.

Confession of defence

148. Whenever any defendant in his statement of defence or in any further statement of defence as mentioned in the last preceding rule alleges any ground of defence which has arisen after the commencement of the action the plaintiff may deliver a confession of such defence and may thereupon unless otherwise ordered by the judge have judgment for his costs up to the time such defence was pleaded. [E. 280.] C. O. 21, R. 148.

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## ORDER XIV.

### RAISING POINTS OF LAW, ETC.

Points of law raised by pleading

Disposal of

149. Any party shall be entitled to raise by his pleading any point of law and any point so raised shall be disposed of by the judge who tries the cause at or after the trial provided that by consent of the parties or by order of the judge on the application of either party the same may be set down for hearing and disposed of at any time before the trial. [E. 282.] C. O. 21, R. 149.

Judgment where point raised disposes of action, etc.

150. If in the opinion of the court or judge the decision of such point of law substantially disposes of the whole action or of any distinct cause of action, ground of defence, set off, counterclaim or reply therein the court or judge may thereupon dismiss the action or make such order therein as may be just. [E. 283.] C. O. 21, R. 150.

Frivolous or vexatious actions

Pleading disclosing no cause of action or answer

151. The court or judge may order any pleading to be struck out on the ground that it discloses no reasonable cause of action or answer and in any such case or in the case of the action or defence being shown by the pleadings to be frivolous or vexatious the court or judge may order the action to be stayed or dismissed or judgment to be entered accordingly as may be just. [E. 284.] C. O. 21, R. 151.

Declaratory judgments

152. No action or proceeding shall be open to objection on the ground that a merely declaratory judgment or order is sought thereby and the court or judge may make binding declarations of right whether any consequential relief is or could be claimed or not. [E. 285.] C. O. 21, R. 152.

## ORDER XV.

### REPLY OR CLOSE OF PLEADINGS.

Time for reply

153. A plaintiff shall deliver his reply if any within eight days after the defence or the last of the defences shall have been delivered unless the time shall be extended by the court or judge. [E. 276.] C. O. 21, R. 153.

Pleading subsequent to reply

154. No pleading subsequent to reply other than a joinder of issue shall be pleaded without leave of the court or a judge and then shall be pleaded only upon such terms as the court or judge shall think fit. [E. 277.] C. O. 21, R. 154.

Time for

155. Subject to the last preceding rule every pleading subsequent to reply shall be delivered within eight days after the delivery of the previous pleading unless the time shall be extended by the court or a judge. C. O. 21, R. 155.

Default in reply or subsequent pleading

Effect of

156. If the plaintiff does not deliver a reply or any party does not deliver any subsequent pleading within the period allowed for that purpose the pleadings shall be deemed to be closed at the expiration of that period and all the material statements of fact in the pleading last delivered shall be deemed to have been denied and put in issue. [E. 302.] C. O. 21, R. 156.

Close of pleadings

157. As soon as any party has joined issue upon the preceding pleading of the opposite party simply without adding any further or other pleading thereto or has made default as mentioned in the preceding rule the pleadings between such parties shall be deemed to be closed. C. O. 21, R. 157.

## ORDER XVI.

### DEFAULT OF PLEADING.

158. If the plaintiff's claim be only for a debt or liquidated demand and the defendant does not within the time allowed for that purpose deliver a defence the plaintiff may at the expiration of such time enter final judgment for the amount claimed with costs. [E. 291.] C. O. 21, R. 158. Claim for debt

159. When in any such action as in the last preceding rule mentioned there are several defendants if one of them make default as mentioned in the last preceding rule the plaintiff may enter final judgment against the defendant so making default and issue execution upon such judgment without prejudice to his right to proceed with his action against the other defendants. [E. 292.] C. O. 21, R. 159. Default of one or more defendants

160. If the plaintiff's claim be for detention of goods and pecuniary damages or either of them and the defendant or all the defendants if more than one make default in delivering a defence within the time allowed for that purpose the judge may on application of the plaintiff assess the value of the goods and amount of the damages or either of them as the case may be or order that they shall be ascertained in any way he may direct and judgment shall be entered thereupon with costs of suit. [E. 293.] C. O. 21, R. 160. Claim detinue and damages

161. When in any such action as in the preceding rule mentioned there are several defendants if one or more of them make default as in that rule defined the plaintiff may enter an interlocutory judgment against the defendant or defendants so making default and proceed with his action against the others and in such case the value and amount of damages against the defendant making default shall be assessed at the same time with the trial of the action or issues therein against the other defendants unless the court or a judge shall otherwise direct. [E. 294.] C. O. 21, R. 161. Default of one or more defendants

162. If the plaintiff's claim be for a debt or liquidated demand and also for detention of goods and pecuniary damages or pecuniary damages only and any defendant make default in delivering his defence as aforesaid the plaintiff may enter final judgment for the debt or liquidated demand and also enter interlocutory judgment for the value of the goods and the damages or the damages only as the case may be and proceed as mentioned in the last two preceding rules. [E. 295.] C. O. 21, R. 162. Claim liquidated demand and debt and damages

Recovery of land

163. In an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid the plaintiff may enter a judgment that the person whose title is asserted in the writ of summons shall recover possession of the land with his costs. [E. 296.] C. O. 21, R. 163.

Claim for mesne profits, arrears of rent or damages

164. Where the plaintiff's claim is for mesne profits, arrears of rent or double value in respect of the premises claimed or any part of them or damages for breach of contract or wrong or injury to the premises claimed in an action for the recovery of land if the defendant makes default in delivering a defence as aforesaid or if there be more than one defendant some or one of the defendants make such default the plaintiff may enter judgment against the defaulting defendant or defendants and proceed as provided for in rules 160 and 161 hereof. [E. 297.] C. O. 21, R. 164.

Where a defence is delivered to part of claim only

165. If the plaintiff's claim be for a debt or liquidated demand, the detention of goods and pecuniary damages or for any such matters or for the recovery of land and the defendant delivers a defence which purports to offer an answer to a part only of the plaintiff's alleged cause of action the plaintiff may by leave of the court or a judge enter judgment final or interlocutory as the case may be for the part unanswered provided that the unanswered part consists of a separate cause of action or is severable from the rest as in the case of part of a debt or liquidated demand; provided also that where there is a counterclaim execution on any judgment as above mentioned in respect to the plaintiff's claim shall not be issued without leave of the court or a judge. [E. 298.] C. O. 21, R. 165.

Other actions, defendant in default

166. In all other actions than those in the preceding rules of this Order mentioned if the defendant makes default in delivering a defence the opposite party may apply to the court or a judge for such judgment if any as upon the pleadings he may appear to be entitled to; and the court or judge may order judgment to be entered accordingly or make such other order as may be necessary to do complete justice between the parties. [E. 300.] C. O. 21, R. 166.

Where more than one defendant

167. Where in any such action as mentioned in the last preceding rule there are several defendants then if one of such defendants make such default as aforesaid the plaintiff may either (if the cause of action is severable) set down the action at once on motion for judgment against the defendant so

making default or may set it down against him at the time when it is entered for trial or set down on motion for judgment against the other defendants. [E. 301.] C. O. 21, R. 167.

Default by parties other than plaintiff or defendant

168. In any case in which issues arise in an action other than between plaintiff and defendant if any party to any such issue makes default in delivering any pleading the opposite party may apply to the court or a judge for such judgment if any as upon the pleadings he may appear to be entitled to; and the court or judge may order judgment to be entered accordingly or may make such other order as may be necessary to do complete justice between the parties. [E. 303.] C. O. 21, R. 168.

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## ORDER XVII.

### SETTING DOWN FOR TRIAL.

Application to set down

169. After the close of the pleadings the plaintiff may at any time on notice to the defendant apply to the judge for and obtain an order setting down the cause for trial at such time and place as the judge shall direct; but if such application be not made within three months after the close of the pleadings the defendant on notice may apply for and obtain an order to the like effect or that the plaintiff's action be dismissed out of court with costs to the defendant; but the judge may instead of dismissing the action at once order such dismissal to take effect from a future date unless the plaintiff meanwhile proceeds with his action;

Dismissal for want of prosecution

Plaintiff neglecting to set down after order made

(*2*) If the plaintiff having obtained an order setting the cause down for trial neglects to set the cause down and proceed to trial in pursuance thereof the defendant may apply to the judge for an order dismissing the action and the judge may thereupon make such order as he may deem proper. C. O. 21, R. 169.

Jury in certain cases

170. On the application to set a cause down for trial if the action be for slander, libel, false imprisonment, malicious prosecution, seduction, breach of promise of marriage or if the action arises out of a tort, wrong or grievance in which the damages claimed exceed $500 or if the action be for debt or founded on contract wherein the amount claimed or the damages sought to be recovered exceed $1,000 or if the action be for the recovery of real property and either party signify his desire

to have the issues of fact therein tried by a judge with a jury or the judge so directs the same shall be tried by a jury. C. O. 21, R. 170.

Order for trial by jury

Costs of jury

171. The order for setting down a cause for trial by jury shall state by whom the necessary fees to be paid out shall be furnished and the party so named shall deposit with the clerk such sum as said clerk considers sufficient for the payment of jurors' fees and the expenses of summoning a sufficient number of persons to form the jury and the clerk shall after the trial pay the said jury and summoning fees and if any balance of the money so deposited with him remains unused after paying such fees return such balance to the party who deposited the same. C. O. 21, R. 171.

Jury

172. The jury for the trial of issues of fact in civil causes shall consist of six persons whose verdict shall be unanimous. C. O. 21, R. 172.

Notice of trial

173. When a cause may have been set down for trial such notice shall be given as the order setting down directs. C. O. 21, R. 173.

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## ORDER XVIII.

### DISCONTINUANCE.

Discontinuance or withdrawal of part of claim after defence

Costs

Subsequent action

Discontinuance at other stages

174. The plaintiff may at any time before receipt of the defendant's defence or after the receipt thereof before taking any other proceeding in the action (save any interlocutory application) by notice in writing wholly discontinue his action against all or any of the defendants or withdraw any part or parts of his alleged cause of complaint and thereupon he shall pay such defendant's costs of the action or if the action be not wholly discontinued the costs occasioned by the matter so withdrawn. Such costs shall be taxed and such discontinuance or withdrawal as the case may be shall not be a defence to any subsequent action. Save as herein otherwise provided it shall not be competent for the plaintiff to withdraw the record or discontinue the action without leave of the court or judge but the court or judge may before or at or after the hearing or trial upon such terms as to the costs and as to any other action and otherwise as may be just order the action to be discontinued or any part of the alleged cause or complaint to be struck out. The court or judge may in like manner and with

the like discretion as to terms upon the application of a defendant order the whole or any part of his alleged grounds of defence or counterclaim to be withdrawn or struck out but it shall not be competent to a defendant to withdraw his defence or any part thereof without such leave. [E. 286.] C. O. 21, R. 174.

Withdrawal of defence or counterclaim

175. When a cause has been entered for trial it may be withdrawn by either a plaintiff or defendant upon producing to the clerk of the court a consent in writing signed by the parties. [E. 287.] C. O. 21, R. 175.

Withdrawal after entry for trial

176. Any defendant may have judgment for the costs of the action if it is wholly discontinued against him or for the costs occasioned by the matter withdrawn if the action be not wholly discontinued, in case such respective costs are not paid within two days after taxation. [E. 288.] C. O. 21, R. 176.

Judgment for costs

177. If any subsequent action shall be brought before payment of the costs of a discontinued action for the same or substantially the same cause of action the court or judge may if deemed proper order a stay of such subsequent action until such costs shall have been paid. [E. 289.] C. O. 21, R. 177.

Stay of subsequent action pending payment

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## ORDER XIX.

### AMENDMENT.

178. The court or a judge may at any stage of the proceedings allow either party to alter or amend his statement of claim or pleadings in such manner and upon such terms as may be just and all such amendments shall be made as may be necessary for the purpose of determining the real questions in controversy between the parties. [E. 305.] C. O. 21, R. 178.

Amendment of pleadings

179. The plaintiff may without any leave amend his statement of claim once at any time before the expiration of the time limited for reply and before replying. [E. 306.] C. O. 21, R. 179.

Amendment of claim without leave

180. A defendant who has set up any counterclaim may without any leave amend such counterclaim at any time before the expiration of the time allowed him for answering the reply. [E. 307.] C. O. 21, R. 180.

Amendment of counterclaim withou leave

Disallowance of improper amendment

181. Where any party has amended his pleading under either of the two preceding rules the opposite party may within eight days after the delivery to him of the amended pleading apply to the court or a judge to disallow the amendment or any part thereof and the court or judge may if satisfied that the justice of the case demands it disallow the same or allow it subject to such terms as to costs or otherwise as may be just. [E. 308.] C. O. 21, R. 181.

Pleading to amendments

Default of

182. Where a party has amended his pleadings (unless otherwise ordered) the opposite party shall plead to the amended pleading or amend his pleading within the time he then has to plead or within eight days from the delivery of the amendment whichever last shall expire; and in case the opposite party has pleaded before the delivery of the amendment and does not plead again or amend within the time above mentioned he shall be deemed to rely on his original pleading in answer to such amendment. [E. 309.] C. O. 21, R. 182.

Leave to amend application

Terms

183. In all cases not provided for by the preceding rules of this order application for leave to amend may be made by either party to the court or a judge or to the judge at the trial of the action and such amendment may be allowed upon such terms as to costs or otherwise as may be just. [E. 310.] C. O. 21, R. 183.

Failure to amend after order

184. If a party who has obtained an order for leave to amend does not amend accordingly within the time limited for that purpose by the order or if no time is thereby limited then within fourteen days from the date of the order such order to amend shall on the expiration of such limited time as aforesaid or of such fourteen days as the case may be become *ipso facto* void unless the time is extended by the court or a judge. [E. 311.] C. O. 21, R. 184.

Manner of amending

185. Any statement or pleading may be amended by written alterations in the copy which has been delivered and by additions on paper to be interleaved therewith if necessary unless the amendments require the insertion of more than 144 words in any one place or are so numerous or of such a nature that the making them in writing would render the document difficult or inconvenient to read in either of which cases the amendment must be made by delivering a printed or written copy of the document as amended. [E. 312.] C. O. 21, R. 185.

Marking amended pleading

186. Whenever any statement or pleading is amended the same when amended shall be marked with the date of the order if any under which the same is so amended and of the day on which such amendment is made in manner following, viz.: "Amended day of (pursuant to order of , dated the day of )." [E. 313.] C. O. 21, R. 186.

Delivery of amended pleading

187. Whenever any statement or pleading is amended such amended document shall be delivered to the opposite party within the time allowed for amending the same. [E. 314.] C. O. 21, R. 187.

Mistakes in judgments or orders

188. Clerical mistakes in judgments or orders or errors arising therein from any accidental slip or omission may at any time be corrected by the court or judge on motion or summons without an appeal. [E. 315.] C. O. 21, R. 188.

General power to amend

189. The court or a judge may at any time and on such terms as to costs or otherwise as the court or judge may think just amend any defect or error in any proceedings and all necessary amendments shall be made for the purpose of determining the real question or issue raised by or depending on the proceedings. [E. 316.] C. O. 21, R. 189.

Costs of amendment

190. The costs of and occasioned by any amendment shall be borne by the party making the same unless the court or judge shall otherwise order. [E. 317.] C. O. 21, R. 190.

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## ORDER XX.

### DISCOVERY OF DOCUMENTS, ETC.

*Ex parte* order for discovery

191. The plaintiff shall at the expiration of the time for delivery of defence and the defendant shall after delivery of defence be entitled on application to the judge *ex parte* to an order directing any other party to any cause or matter to make discovery by affidavit of the documents which are or have been in his possession or power relating to any matter in question therein. C. O. 21, R. 191.

Affidavit of discovery

Objections to production

192. The affidavit to be made by a party against whom such order as is mentioned in the last preceding rule has been made shall specify which if any of the documents therein mentioned he objects to produce. [E. 355.] C. O. 21, R. 192.

Production of documents

193. It shall be lawful for the court or judge at any time during the pendency of any cause or matter to order the production by any party thereto upon oath of such of the documents in his possesion or power relating to any matter in question in such cause or matter as the court or judge shall think right; and the court may deal with such documents when produced in such manner as shall appear just. [E. 356.] C. O. 21, R. 193.

Inspection of documents referred to in pleadings or affidavits

194. Every party to a cause or matter shall be entitled at any time by notice in writing to give notice to any other party in whose pleadings or affidavits reference is made to any document to produce such document for the inspection of the party giving such notice or of his advocate and to permit him or them to take copies thereof; and any party not complying with such notice shall not afterwards be at liberty to put any such document in evidence in his behalf in such cause or matter unless he shall satisfy the court or judge that such document relates only to his own title he being a defendant to the cause or matter or that he had some other cause or excuse which the court or judge shall deem sufficient for not complying with such notice; in which case the court or judge may allow the same to be put in evidence on such terms as to costs and otherwise as the court or judge shall think fit. [E. 357.] C. O. 21, R. 194.

Notice of time and place of inspection

195. The party to whom such notice is given shall within two days from the receipt of such notice if all the documents therein referred to have been set forth by him in such affidavit as is mentioned in rule 192 hereof or if any of the documents referred to in such notice have not been set forth by him in any such affidavit then within four days from the receipt of such notice deliver to the party giving the same a notice stating a time within three days from the delivery thereof at which the documents or such of them as he does not object to produce may be inspected at the office of his advocate or in case of banker's books or other books of account or books in constant use for the purpose of any trade or business at their usual place of custody and stating which if any of the documents he objects to produce and on what ground. [E. 359.] C. O. 21, R. 195.

Objections to production

Order for inspection

196. If the party served with notice under the last preceding rule omits to give such notice of a time for inspection or objects to give inspection or offers inspection elsewhere than at the office of his advocate the judge may on application of

the party desiring it make an order for inspection at such place and in such manner as he may think fit; and except in the case of documents referred to in the pleadings or affidavits of the party against whom the application is made or disclosed in his affidavit of documents, such application shall be founded upon an affidavit showing of what documents inspection is sought, that the party applying is entitled to inspect them and that they are in the possession or power of the other party. [E. 360.] C. O. 21, R. 196.

Discovery or inspection may be reserved

197. If the party from whom discovery of any kind or inspection is sought objects to the same or any part thereof the judge may if satisfied that the right to the discovery or inspection sought depends on the determination of any issue or question in dispute in the cause or matter or that for any other reason it is desirable that any issue or question in dispute in the cause or matter should be determined before deciding upon the right to the discovery or inspection, order that such issue or question be determined first and reserve the question as to the discovery or inspection. [E. 362.] C. O. 21, R. 197.

Noncompliance with order for discovery or inspection

Penalty

198. If any person fails to comply with any order for discovery or inspection of documents he shall be liable to attachment for contempt of court. He shall also if a plaintiff be liable to have his action dismissed for want of prosecution and if a defendant to have his defence if any struck out and to be placed in the same position as if he had not defended and the party interrogating may apply to that effect and an order may be made accordingly. [E. 363.] C. O. 21, R. 198.

Service of order

199. Service of an order for discovery or inspection made against any party on his advocate shall be sufficient service to found an application for an attachment for disobedience to the order; but the party against whom the application for an attachment is made may show in answer to the application that he has had no notice or knowledge of the order. [E. 364.] C. O. 21, R. 199.

Advocate neglecting to inform client of order

200. An advocate upon whom an order against any party for discovery or inspection is served under the last preceding rule who neglects without reasonable excuse to give notice thereof to his client shall be liable to attachment. [E. 365.] C. O. 21, R. 200.

## ORDER XXI.

### EXAMINATION FOR DISCOVERY.

Examination of parties before trial

201. Any party to an action whether plaintiff or defendant or in the case of a body corporate any one who is or has been one of the officers of such body corporate may without any special order for the purpose be orally examined before the trial touching the matters in question in any action by any party adverse in point of interest and may be compelled to attend and testify in the same manner upon the same terms and subject to the same rules of examination as any witness except as hereinafter provided. C. O. 21, R. 201.

Person beneficially interested

202. A person for whose immediate benefit an action is prosecuted or defended is to be regarded as a party for the purpose of examination. C. O. 21, R. 202.

When examination may take place

203. The examination on the part of a plaintiff may take place at any time after the statement of defence of the party to be examined has been delivered or after the time for delivering the same has expired; and the examination on the part of a defendant may take place any time after such defendant has delivered his statement of defence; and the examination of a party to an issue at any time after the issue has been filed. C. O. 21, R. 203.

Examining officer

Place of examination

Appointment and subpœna

Conduct money

204. Whenever a party is entitled to examine another party he may procure an appointment therefor from the clerk or any deputy clerk or process issuer in the judicial district where the action was commenced for the examination as hereinafter provided of such party before such clerk, deputy clerk or process issuer at whose office such examination is to be held; and the party to be examined (upon being served with a copy of the appointment and a subpœna and upon payment of the proper fees) shall attend thereon and submit to examination.

(2) Such examination shall be held at the office of the clerk, deputy clerk or process issuer nearest to the place where the party to be examined resides. C. O. 21, R. 204.

Appointment to be served on advocate

205. The party examining shall serve a copy of the appointment upon the advocate of the party to be examined if he has an advocate in the cause at least forty-eight hours before the examination. C. O. 21, R. 205.

Examination before other person or without jurisdiction

206. Upon application to the court or a judge an order may be made for the examination of any party liable to be exam-

ined as aforesaid before any other person or in any other place whether within or without the jurisdiction of the court than those before mentioned and upon service of a copy of the appointment of a person before whom the examination is to take place and a copy of the order upon the party to be examined and upon payment of the proper fees he is to attend and submit to examination. A copy of the appointment shall be served upon the advocate of the party or his agent at least forty-eight hours before the examination. C. O. 21, R. 206.

**Notice to produce books and papers**

207. The party or person to be examined shall if so required by notice produce on the examination all books, papers and documents which he would be bound to produce at the trial under a subpœna *duces tecum*. C. O. 21, R. 207.

**Certified copies of documents**

208. In the event of any witness on his examination, cross-examination or re-examination producing any book, document, letter, paper or writing and refusing for good cause to be stated in his deposition to part with the original thereof then a copy thereof or extract therefrom certified by the examiner to be a true and correct copy or extract shall be attached to the depositions and form part thereof. C. O. 21, R. 208.

**Further examination on party's own behalf, etc.**

209. Any party or officer so examined may be further examined on his own behalf or on behalf of the body corporate of which he is or has been an officer in relation to any matter respecting which he has been examined in chief; and when one of several plaintiffs or defendants has been examined any other plaintiff or defendant united in interest may be examined on his own behalf or on behalf of those united with him in interest to the same extent as the party examined. C. O. 21, R. 209.

**Explanatory examination**

**Time for**

210. Such explanatory examination shall be proceeded with immediately after the examination in chief and not at any future period except by leave of the court or a judge and for the purposes of this and the preceding rule when the officer of a body corporate has been so examined as aforesaid on behalf of the body corporate the body corporate shall be deemed to be fully represented by such officer. C. O. 21, R. 210.

**Conduct of examination, etc.**

211. Any party or person examined orally under the preceding rules of this order shall be subject to cross examination and re-examination; and such examination, cross examination and re-examination shall be conducted as nearly as may be in the mode in use on a trial. C. O. 21, R. 211.

Production of documents for inspection of examiner

212. A party to the action who admits upon his examination that he has in his custody or power any deed, paper, writing or document relating to the matters in question in the cause upon the order of the person before whom he is examined shall produce the same for his inspection and for that purpose a reasonable time shall be allowed; but no party shall be obliged to produce any deed, paper, writing or document which is privileged or protected from production. C. O. 21, R. 212.

Appeal from examiner's order

213. Either party may appeal from the order of the examiner and thereupon the examiner shall certify under his hand the question raised and the order made thereon. C. O. 21, R. 213.

Refusal to attend answer, etc.

214. Any party or person refusing or neglecting to attend at the time and place appointed for his examination or refusing to be sworn or to answer any lawful question put to him by the examiner or by any party entitled so to do or his counsel, advocate or agent shall be deemed guilty of a contempt of court and proceedings may be forthwith had by attachment. If a defendant he shall be liable to have his defence if any struck out and be placed in the same position as if he had not defended; and the party examining may apply to the court or a judge to that effect and an order may be made accordingly. C. O. 21, R. 214.

Penalty

Objections by witness

Decision as to validity

215. If the party or person under examination demurs or objects to any question or questions put to him the question or questions so put and the objection of the witness thereto shall be taken down by the examiner and transmitted by him to the office of the court where the pleadings are filed to be there filed; and the validity of such objection shall be decided by the court or a judge; and the costs of and occasioned by such objection shall be in the discretion of the court or a judge. C. O. 21, R. 215.

Form and completion of deposition

216. Subject to rules 218, 219 and 220 hereof the depositions taken upon any such oral examination as aforesaid shall be taken down in writing by the examiner not ordinarily by question and answer but in the form of a narrative expressed in the first person; and when completed shall be read over to the party examined and shall be signed by him in the persence of the parties or of such of them as may think fit to attend. C. O. 21, R. 216.

Witness not signing deposition

217. In case the party or person examined refuses or is unable to sign the depositions then the examiner shall sign

**Report of special matter**

the same; and the examiner may upon every examination state any special matter to the court if he thinks fit. C. O. 21, R. 217.

**Question and answer, objections, etc.**

218. It shall be in the discretion of the examiner to put down any particular question or answer if there appears to be any special reason for so doing and any question or questions objected to shall at the request of either party be noticed or referred to by the examiner in or upon the depositions; and he shall state his opinion thereon to the counsel, advocates, agents or parties and if requested by either party he shall on the face of the depositions refer to such statement. C. O. 21, R. 218.

**Recording in deposition**

**Deposition taken in shorthand**

219. In case of an examination before the trial or otherwise than at the trial of an action if the examining party desires to have such examination taken in shorthand he shall be entitled to have it so taken at the place of examination except where the court or a judge sees fit to order otherwise. C. O. 21, R. 219.

**Form and completion of shorthand report**

220. Where an examination in a cause or proceeding is taken by the examiner or any other authorised person in shorthand the examination may be taken down by question and answer; and in such cases it shall not be necessary for the depositions to be read over to or be signed by the person examined unless the judge so directs where the examination is taken before a judge or in other cases unless any of the parties so desires. C. O. 21, R. 220.

**Certified copy of depositions**

221. A copy of the deposition so taken certified by the person taking the same as correct shall for all purposes have the same effect as the original depositions in ordinary cases. C. O. 21, R. 221.

**Filing depositions**

222. Wherever any such examination of any party or witness has been taken before a clerk of the supreme court or before any officer or other person authorised or appointed to take the same the depositions taken down by the examiner shall at the request of any party interested and on payment of his fees be returned to and kept in the office of the clerk of the court in which the proceedings are being carried on; and office copies of such depositions may be given out and the examinations and depositions certified under the hand of the examiner taking the same or a copy thereof certified under the hand of the clerk of the court shall without proof of the signature be received and read in evidence saving all just exceptions. C. O. 21, R. 222.

**Certified copies evidence**

Special report of examiner

223. Every person taking examinations may and if need be shall make a special report to the court in which such proceedings are pending touching such examinations and the conduct or absence of any witness or other person thereon or relating thereto; and the court shall institute such proceedings and make such order upon such report as justice may require and as may be instituted and made in any case of contempt of court. C. O. 21, R. 223.

Use of examination at trial

224. Any party may at the trial of an action or issue or upon any application or motion use in evidence any part of the examination of the opposite parties:

Provided always that in such case the judge may look at the whole of the examination and if he is of opinion that any other part is so connected with the part to be so used that the last mentioned part ought not to be used without such other part he may direct such other part to be put in evidence.

(2) *Where an officer of a corporation has been examined under rule 201, the whole or any part of the examination may be used as evidence by any party adverse in interest to the corporation, and shall be evidence accordingly; but in the case of a part only being used the corporation may put in as explanatory any other part of the examination which is so connected with the part to be so used that the last mentioned part ought not to be used without such explanatory part, or may use the remainder of the examination of the officer as evidence on the part of the corporation.*

(3) *Where a person who has been an officer of a corporation has been examined under rule 201 the whole or any part of his examination may by leave of the judge be used in the same manner as in the preceding subrule provided in respect to the examination of an existing officer of a corporation but this subrule shall not apply to the case of an officer who has been dismissed from the service of the corporation before service of the appointment for the examination.* C. O. 21, R. 224, amend. by 1902, c. 5, s. 1.

Costs of examinations

225. *The costs of every interlocutory* viva voce *examination and cross examination shall be borne by the party who examines unless otherwise ordered by the court or a judge.* 1901, c. 10, s. 4.

## ORDER XXII.

### ADMISSIONS.

**Notice of admission of facts**

226. Any party to a cause or matter may give notice by his pleading or otherwise in writing that he admits the truth of the whole or any part of the case of any other party. [E. 371.] C .O. 21, R. 226.

**Notice to admit documents**

**Costs: (1) admissions refused (2) notice not given**

227. Either party may call upon the other party to admit any document saving all just exceptions; and in case of refusal or neglect to admit after such notice the costs of proving any such document shall be paid by the party so neglecting or refusing whatever the result of the cause or the matter may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable; and no costs of proving any document shall be allowed unless such notice be given except where the omission to give the notice is in the opinion of the judge a saving of expense. [E. 372.] C. O. 21, R. 227.

**Notice to admit facts**

**Costs where admission refused**

228. Any party may by notice in writing at any time not later than twelve days before the day fixed for trial call on any other party to admit for the purposes of the cause, matter or issue only any specific fact or facts mentioned in such notice; and in case of refusal or neglect to admit the same within six days after service of such notice or within such further time as may be allowed by a judge the cost of proving such fact or facts shall be paid by the party so neglecting or refusing whatever the result of the cause, matter or issue may be unless at the trial or hearing the judge is satisfied that the refusal to admit was reasonable:

**Effect of admission**

Provided that any admission made in pursuance of such notice is to be deemed to be made only for the purposes of the particular cause, matter or issue and not as an admission to be used against the party on any other occasion or in favour of any person other than the party giving the notice:

**Admissions Amendment or withdrawal**

Provided also that the judge may at any time allow any party to amend or withdraw any admission so made on such terms as may be just. [E. 374.] C. O. 21, R. 228.

**Judgment on admissions**

229. Any party may at any stage of a cause or matter where admissions of fact have been made either on the pleadings or otherwise apply to a judge for such judgment or order as upon such admissions he may be entitled to without waiting for the determination of any other question between the parties and the judge may upon such application make such order or give such judgment as the judge may think just. [E. 376.] C. O. 21, R. 229.

Evidence of admissions

230. An affidavit of the advocate or his clerk of the due signature of any admissions made in pursuance of any notice to admit documents or facts shall be sufficient evidence of such admissions if evidence thereof be required. [E. 377.] C. O. 21, R. 230.

Notice to admit or produce

Costs

231. If a notice to admit or produce comprises documents which are not necessary the costs occasioned thereby shall be borne by the party giving such notice. [E. 379.] C. O. 21, R. 231.

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## ORDER XXIII.

### ISSUES, INQUIRIES AND ACCOUNTS.

Issues of fact, preparing and settling

232. Where in any cause or matter it appears to the court or judge that the issues of fact in dispute are not sufficiently defined the parties may be directed to prepare issues and such issues shall if the parties differ be settled by the court or judge. [E. 380.] C. O. 21, R. 232.

Inquiries and accounts, when and how taken

233. The court or a judge may at any stage of the proceedings in a cause or matter direct any necessary inquiries or accounts to be made or taken and may direct the same to be taken by the clerk or other competent person notwithstanding that it may appear that there is some special or further relief sought for or some special issue to be tried as to which it may be proper that the cause or matter should proceed in the ordinary manner. [E. 381.] C. O. 21, R. 233.

Actions for account

234. In cases where the statement of claim is for an account or involves the taking of an account if the defendant either fails to appear or does not after appearance satisfy the judge that there is some preliminary question to be tried the plaintiff may obtain an order directing the taking of proper accounts; and in cases in which the plaintiff in the first instance desires to have an account taken the statement of claim shall request the same. [E. 121.] C. O. 21, R. 234.

Special directions as to mode of taking account

235. The judge may either by the judgment or order directing an account to be taken or by any subsequent order give special direction with regard to the mode in which the account is to be taken or vouched and in particular may direct that in taking the account the books of account in which the accounts in question have been kept shall be taken as *prima*

*facie* evidence of the truth of the matters therein contained with liberty to the parties interested to take such objections thereto as they may be advised. [E. 382.] C. O. 21, R. 235.

Account Verification

236. Where any account is directed to be taken the accounting party unless the judge shall otherwise direct shall make out his account and verify the same by affidavit. The items on each side shall be numbered consecutively and the account shall be referred to by the affidavit as an exhibit and be filed in court. [E. 383.] C. O. 21, R. 236.

Production of vouchers Contested items

237. Upon taking of any account the court or judge may direct that the vouchers shall be produced at the office of the advocate of the accounting party or at any other convenient place and that only such items as may be contested or surcharged shall be brought before the judge in chambers. [E. 383*a*.] C. O. 21, R. 237.

Surcharge

238. Any party seeking to charge any accounting party beyond what he has by his account admitted to have received shall give notice thereof to the accounting party stating so far as he is able the amount sought to be charged and the particulars thereof in a short and succinct manner. [E. 384.] C. O. 21, R. 238.

Inquiry as to outstanding estate

239. Every judgment or order for a general account of the personal estate of a testator or intestate shall contain a direction for an inquiry as to what parts if any of such personal estate are outstanding or undisposed of unless the court or judge shall otherwise direct. [E. 385.] C. O. 21, R. 239.

Numbering directions for account or inquiry

240. Where by any judgment or order whether made in court or by the judge any accounts are directed to be taken or inquiries to be made each such direction shall be numbered so that as far as may be each distinct account and inquiry may be designated by a number with such variations as the circumstances of the case may require. [E. 386.] C. O. 21, R. 240.

Just allowances

241. In taking any account directed by any judgment or order all just allowances shall be made without any direction for that purpose. [E. 387.] C. O. 21, R. 241.

Expediting proceedings in case of undue delay

242. If it shall appear to the judge that there is any undue delay in the prosecution of any accounts or inquiries or in any other proceedings under any judgment or order the judge may require the party having the conduct of the proceedings under

any judgment or order or any other party to explain the delay and may thereupon make such order with regard to expediting the proceedings or the conduct thereof or the stay thereof and as to the costs of the proceedings as the circumstances of the case may require; and for the purposes aforesaid any party may be directed to summon the persons whose attendance is required and to conduct any proceedings and carry out any directions which may be given; and any costs of such party so directed shall be paid by such parties or out of such funds as the judge may direct. [E. 388.] C. O. 21, R. 242.

## *Inquiry and Reference as to Damages.*

Ascertainment of damages

243. In every action or proceeding in which it shall appear to the court or judge that the amount of damages sought to be recovered is substantially a matter of calculation the court or judge may either fix the amount or direct that the amount for which final judgment is to be entered shall be ascertained by an officer of the court or other person; and the attendance of witnesses and the production of documents before such officer or other person may be compelled by subpœna; and such officer or other person may adjourn the inquiry from time to time and shall indorse upon the order for referring the amount of damages to him, the amount found by him and shall deliver the order with such indorsement to the clerk of the court and such and the like proceedings may thereupon be had as to taxation of costs, entering judgment and otherwise as in ordinary cases. [E. 481.] C. O. 21, R. 243.

Where continuing cause of action

244. Where damages are to be assessed in respect of any continuing cause of action they shall be assessed down to the time of assessment. [E. 482.] C. O. 21, R. 244.

## SUMMARY INQUIRIES INTO FRAUDULENT TRANSFERS.

Originating summons

Inquiry into alleged fraudulent conveyances

245. Where a judgment creditor or a person entitled to money under a judgment or order alleges that the debtor or person who is to pay has made a conveyance of his property whether real or personal which is void as being made to delay, hinder or defraud creditors or a creditor an originating summons may be issued by the judgment creditor calling upon the judgment debtor or person who is to pay or who has acquired any interest thereunder to show cause why the property embraced in such conveyance or a competent part thereof should not be sold to realise the amount to be levied under the execution. [R.S.O. 1877, c. 49, s. 10.] C. O. 21, R. 245.

246. Where any judgment creditor in an action or a person entitled under a judgment or order as aforesaid alleges that the debtor or person who is to pay is entitled to or has an interest in any property which under the former practice could not be sold under legal process but could be rendered available in an action for equitable execution by sale for satisfaction of the debt, an originating summons may be issued by the creditor calling upon the debtor or person who is to pay and the trustee or other person having the legal estate in the property or the interest therein of the debtor or the person who is to pay to show cause why the property or a competent part of the said property should not be sold to realise the amount to be levied under the execution. [R.S.O. 1877, c. 49, s. 11.] C. O. 21, R. 246. For equitable execution

247. Upon any application under either of the two preceding rules such proceedings shall be had either in a summary way or by the trial of an issue or by inquiry before an officer of the court or otherwise as the court or judge may deem necessary or convenient for the purpose of ascertaining the truth of the matters in question and whether the property or the debtor's or other person's interest therein is liable for the satisfaction of the execution. [R.S.O. 1877, c. 49, s. 12.] C. O. 21, R. 247. Issue or inquiry

248. Where in a summary way or upon the trial of an issue or as the result of any inquiries under the three preceding rules any property or the interest of any debtor or other person therein is found liable to be sold an order shall be made by the court or judge declaring what property or what interest therein is liable to be sold and directing the sale thereof according to the usual practice. [R.S.O. 1877, c. 49, s. 14.] C. O. 21, R. 248. Order for sale

249. Pending any such issue or inquiry any interim injunction order may be issued or a receiver appointed to prevent the transfer or other disposition of the property. C. O. 21, R. 249. Interim injunction or receiver

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## ORDER XXIV.

### SPECIAL CASE.

250. The parties to any cause or matter at any stage of the cause or matter or without any previous proceedings having been instituted may concur in stating the questions of law Special case by consent

arising therein in the form of a special case for the opinion of the court. Every such special case shall be divided into paragraphs numbered consecutively and shall concisely state such facts and documents as may be necessary to enable the court to decide the questions raised thereby. Upon the argument of such case the court and the parties shall be at liberty to refer to the whole contents of such documents and the court shall be at liberty to draw from the facts and documents stated in any special case any inference whether of fact or law which might have been drawn therefrom if proved at a trial. [E. 389.] C. O. 21, R. 250.

**Special case or question of law raised by order before trial**

251. If it appear to the court or judge that there is in any cause or matter a question of law which it would be convenient to have decided before any evidence is given or any question or issue of fact is tried or before any reference is made to a referee the court or judge may make an order accordingly and may direct such question of law to be raised for the opinion of the court either by special case or in any such other manner as the court or judge may deem expedient and all such further proceedings as the decision of such question of law may render unnecessary may thereupon be stayed. [E. 390.] C. O. 21, R. 251.

**Special case where person under disability is party**

252. No special case in any cause or matter to which a married woman (not being a party thereto in respect of her separate property or of any separate right of action by or against her), infant or person of unsound mind not so found by judicial decision is a party shall be set down for argument without leave of the court or judge, the application for which must be supported by sufficient evidence that the statements contained in such special case so far as the same affect the interest of such married woman, infant or person of unsound mind are true. [E. 392.] C. O. 21, R. 252.

**Agreement for payment of money according to result of special case**

253. The parties to a special case may if they think fit enter into an agreement in writing that on the judgment of the court being given in the affirmative or negative of the questions of law raised by the special case a sum of money fixed by the parties or to be ascertained by the court or in such manner as the court may direct shall be paid by one of the parties to the other of them either with or without costs of the cause or matter; and the judgment of the court may be entered for the sum so agreed or ascertained with or without costs as the case may be and execution may issue upon such judgment in the ordinary way unless otherwise agreed or unless stayed on appeal. [E. 394.] C. O. 21, R. 253.

## ORDER XXV.

### TRIAL.

254. If when a trial is called on the plaintiff appears and the defendant does not appear the plaintiff may prove his claim so far as the burden of proof lies upon him. [E. 455.] C. O. 21, R. 254.

Defendant not appearing

255. If when a trial is called on the defendant appears and the plaintiff does not appear the defendant if he has no counterclaim shall be entitled to judgment dismissing the action but if he has a counterclaim then he may prove such counterclaim so far as the burden of proof lies upon him. [E. 456.] C. O. 21, R. 255.

Plaintiff not appearing

256. Any verdict or judgment obtained where one party does not apear at the trial may be set aside by the court or judge upon such terms as may seem fit upon an application within fifteen days after the trial. [E. 457.] C. O. 21, R. 256.

Judgment by default

Setting aside

257. The judge may if he thinks it expedient for the interests of justice postpone or adjourn a trial for such time and to such place and upon such terms if any as he shall think fit; but no trial shall be postponed upon the ground of the absence of a material witness unless the affidavit upon which the application is made distinctly states that the deponent believes and is advised that the party on whose behalf the application is made has a just cause of action or defence upon the merits and that the application is not made solely for delay. [E. 458.] C. O. 21, R. 257.

Postponement or adjournment of trial

258. Where through accident or mistake or other cause any party omits or fails to prove some fact material to his case the judge may proceed with the trial subject to such fact being afterwards proved at such time and subject to such terms and conditions as to costs and otherwise as the judge shall direct and if the case is being tried by a jury the judge may direct the jury to find a verdict as if such fact had been proved and the verdict shall take effect on such fact being afterwards proved as directed; and if not so proved judgment shall be entered for the opposite party unless the court or judge otherwise directs. This rule shall not apply to actions for libel or slander. C. O. 21, R. 258.

Accidental omission to prove material fact

Speeches to jury

259. Upon a trial with a jury the addresses to the jury shall be regulated as follows: the party who begins or his counsel shall be allowed at the close of his case if his opponent does not announce any intention to adduce evidence to address the jury a second time for the purpose of summing up the evidence and the opposite party or his counsel shall be allowed to open his case and also to sum up the evidence if any and the right to reply shall be the same as in England. [E. 460.] C. O. 21, R. 259.

Cross examination

Vexatious or irrelevant questions

260. The judge may in all cases disallow any questions put in cross examination of any party or other witness which may appear to him to be vexatious and not relevant to any matter proper to be inquired into in the cause or matter. [E. 462.] C. O. 21, R. 260.

Delivery of judgment

261. The judge shall at or after trial direct judgment to be entered as he shall think right and no motion for judgment shall be necessary in order to obtain such judgment. [E. 463.] C. O. 21, R. 261.

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## ORDER XXVI.

### EVIDENCE, ETC.

### I—*Evidence Generally.*

Evidence may be taken by examiner

Judgment thereon or new trial

262. In any action the judge may direct the evidence either wholly or in part to be taken by any clerk of the court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing and on the return of the evidence the judge may give judgment upon the evidence taken by the clerk or other person as aforesaid or may order a new trial when justice seems to require the same. C. O. 21, R. 262.

Witnesses to be examined *viva voce* unless otherwise agreed or ordered

263. In the absence of any agreement in writing between the parties or their advocates and subject to the provisions of this Ordinance the witnesses at the trial of any action or at any assessment of damages shall be examined *viva voce* and in open court but the court or judge may at any time for sufficient reason order that any particular fact or facts may be proved by affidavits or that the affidavit of any witness may be read at the hearing or trial on such conditions as the court or judge may think reasonable or that any witness whose attendance in

court ought for some sufficient cause to be dispensed with be examined by interrogatories or otherwise before a commissioner or examiner:

Provided that where it appears to the court or judge that the other party *bona fide* desires the production of a witness for cross examination and that such witness can be produced an order shall not be made authorising the evidence of such witness to be given by affidavit. [E. 483.] C. O. 21, R. 263.

264. An order to read evidence taken in another cause or matter shall not be necessary but such evidence may saving all just exceptions be read by leave of the court or judge. [E. 485.] C. O. 21, R. 264.

**Reading evidence taken in other causes**

265. Copies of all writs, records, pleadings and documents filed in court when certified by the clerk shall be admissible in evidence in all causes and matters and between all persons or parties to the same extent as the original would be admissible. [E. 486.] C. O. 21, R. 265.

**Office copies admissable in evidence**

266. Impounded documents while in the custody of the court are not to be parted with; and are not to be inspected except on a written order signed by the judge on whose order they were impounded; or in case of documents impounded on the order of the court *en banc* by an order of that court such documents shall not be delivered out of the custody of the court except on an order made on motion in open court. [E. 611*a*.] C. O. 21, R. 266.

**Impounded documents**

## II.—*Examination of Witnesses.*

267. The court or judge may in any cause or matter when it shall appear necessary for the purposes of justice make any order for the examination upon oath *viva voce* or by interrogatories in writing before the court or judge or any officer of the court or any other person and at any place of any witness or person and may empower any party to any such cause or matter to give such deposition in evidence therein on such terms if any as the court or judge may direct. [E. 487.] C.O. 21, R. 267.

**Order for examination of witness**

268. The court or judge may in any cause or matter at any stage of the proceedings order the attendance of any person for the purpose of producing any writings or other documents named in the order which the court or judge may think fit to be produced:

**Order for production of documents**

Provided that no person shall be compelled to produce under any such order any writing or other document which he could not be compelled to produce at the hearing or trial. [E. 489.] C. O. 21, R. 268.

Disobedience to order

269. Any person wilfully disobeying any order requiring his attendance for the purpose of being examined or of producing any document shall be deemed guilty of contempt of court and may be dealt with accordingly. [E. 490.] C. O. 21, R. 269.

Conduct money

270. Any person required to attend for the purpose of being examined or of producing any document shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court. [E. 491.] C. O. 21, R. 270.

Copy of proceedings to be furnished examiner

271. Where any witness or person is ordered to be examined before any officer of the court or before any person appointed for the purpose the person taking the examination shall be furnished by the party on whose application the order was made with a copy of the proceedings in the cause or with a copy of the documents necessary to inform the person taking the examination of the questions at issue between the parties. [E. 492.] C. O. 21, R. 271.

Conduct of examination

272. The examination shall take place in the presence of the parties, their counsel, advocate or agent and the witnesses shall be subject to cross examination and re-examination. [E. 493.] C. O. 21, R. 272.

Depositions, mode of taking

273. The depositions taken before an officer of the court or before any other person appointed to take the examination shall be taken down in writing by or in the presence of the examiner not ordinarily by question and answer but so as to represent as nearly as may be the statement of the witness and when completed shall be read over to the witness and signed by him in the presence of the parties or such of them as may think fit to attend. If the witness shall refuse to sign the depositions the examiner shall sign the same. The examiner may put down any particular question or answer if there should appear any special reason for doing so and may put any question to the witness as to the meaning of any answer or as to any matter arising in the course of the examination. Any questions which may be objected to shall be taken down by the examiner in the depositions and he shall state his opinion thereon to the advocate or parties and shall refer to such statement in the

Reading and signatures

Questions and answers

Objections

depositions but he shall not have the power to decide upon the materiality or relevancy of any question. [E. 494.] C. O. 21, R. 273.

274. If any person duly summoned by subpœna to attend for examination shall refuse to attend or if having attended he shall refuse to be sworn or to answer any lawful question a certificate of such refusal signed by the examiner shall be filed in court and thereupon the party requiring the attendance of the witness may apply to the court or judge *ex parte* or on notice for an order directing the witness to attend or to be sworn or to answer any question as the case may be. [E. 495.] C. O. 21, R. 274.

**Disobedience of witness**

275. If any witness shall object to any questions which may be put to him before an examiner the question so put and the objection of the witness thereto shall be taken down by the examiner and transmitted by him to the court to be there filed and the validity of the objection shall be decided by the court or judge. [E. 496.] C. O. 21, R. 275.

**Objections by witness**

276. If it shall be made to appear to the judge that a witness has been duly served with a subpœna and his fees for travel and attendance paid or tendered to him and that such witness refuses or neglects to attend to give evidence as required by his subpœna and that his evidence is necessary and material it shall be lawful for the judge in addition to any powers which he may possess for the punishment of such witness to issue a warrant under his hand and seal directed to any sheriff or other officer or officers for the immediate arrest of such witness to be brought before the court or person authorised to hear the evidence for the purpose of giving evidence in the cause. C. O. 21, R. 276.

**Witness disobeying subpœna**

**Warrant for arrest**

277. In any case under the three last preceding rules the court or judge shall have power to order the witness to pay any costs occasioned by his refusal or objection. [E. 497.] C. O. 21, R. 277.

**Costs against disobedient witness**

278. When the examination of any witness before any examiner shall have been concluded the original depositions authenticated by the signature of the examiner shall be returned by him to the clerk of the court to whom the same is returnable and by him shall be filed. [E. 498.] C. O. 21, R. 278.

**Return of depositions**

Special report by examiner

279. The person taking the examination of a witness under the provisions of this order may and if need be shall make a special report to the court touching such examination and the conduct or absence of any witness or other person thereon and the court or judge may direct such proceedings and make such order as upon the report they or he may think just. [E. 499.] C. O. 21, R. 279.

Depositions, use of in evidence

280. Except where it is otherwise provided or may be directed by the court or judge no deposition shall be given in evidence at the hearing or trial of the cause or matter without the consent of the party against whom the same may be offered unless the court or judge is satisfied that the deponent is dead or beyond the jurisdiction of the court or unable from sickness or other infirmity to attend the hearing or trial in any of which cases the depositions certified under the hand of the person taking the examination shall be admissible in evidence saving all just exceptions without proof of the signature to such certificate. [E. 500.] C. O. 21, R. 280.

Oaths

281. Any officer of the court or other person directed to take the examination of any witness or person may administer oaths. [E. 501.] C. O. 21, R. 284.

Examination for use in proceedings in cause

Cross examination on affidavit

282. Any party in any cause or matter may by subpœna *ad testificandum* or *duces tecum* require the attendance of any witness before an officer of the court or other person appointed to take the examination for the purpose of using his evidence upon any proceeding in the cause or matter in the like manner as such witness should be bound to attend and be examined at the hearing or trial; and any party or witness having made an affidavit to be used or which shall be used on any proceeding in the cause or matter shall be bound on being served with such subpœna to attend before such officer or person for cross examination. [E. 502.] C. O. 21, R. 282.

Evidence taken after trial

283. Evidence taken subsequently to the hearing or trial of any cause or matter shall be taken as nearly as may be in the same manner as evidence taken at or with a view to a trial. [E. 503.] C. O. 21, R. 283.

Practice on taking evidence

284. The practice with reference to the examination, cross examination and re-examination of witnesses at a trial shall extend and be applicable to evidence taken in any cause or matter at any stage. [E. 504.] C. O. 21, R. 284.

285. The practice of the court with respect to evidence at a trial when applied to evidence to be taken before an officer of the court or other person in any cause or matter after the hearing or trial shall be subject to any special directions which may be given in any case. [E. 505.] C. O. 21, R. 285. Special directions as to taking evidence

286. No affidavit or deposition filed or made before issue joined in any cause or matter shall without special leave of the court or judge be received at the hearing or trial thereof unless within one month after the cause is at issue or within such longer time as may be allowed by special leave of the court or a judge notice in writing shall have been given by the party intending to use the same to the opposite party of his intention in that behalf. [E. 506.] C. O. 21, R. 286. Notice to use affidavit or depositions at trial

287. All evidence taken at the hearing or trial of any cause or matter may be used in any subsequent proceedings in the cause or matter. [E. 507.] C. O. 21, R. 287. Evidence at trial, subsequent use of

287a. *Upon the application of any party to a cause or matter at or before the trial the judge may order that the evidence at the trial shall be taken in shorthand by some competent person to be named by the judge and may give such directions as to the costs occasioned by the taking of the evidence in shorthand as to him may seem meet.* Evidence in shorthand

*2 The stenographer taking the notes of evidence shall as [illegible] transcribe the same into longhand and after [illegible] correctness of the transcription shall deliver [illegible] judge who shall compare the same with his [illegible] and if the said transcription differs in any [illegible] respect from [illegible] of evidence correct the same to [illegible] notes and thereupon certify the said [illegible] and deposit the same with the clerk and the [illegible] when so certified by [illegible] stenographer and the [illegible] to [illegible] evidence.*

*(3) Any copy of the evidence certified by the said stenographer [illegible] by the said clerk [illegible] [illegible] as if it were the original evidence.*

[illegible]

[illegible]

**Shorthand reporters**

287*b*. *The Lieutenant Governor in Council may appoint one or more official shorthand writers for the purpose of taking and reporting the evidence at trials and may fix their remuneration.*

(*2*) *Every such reporter shall be an officer of the court and shall hold office during the pleasure of the Lieutenant Governor in Council and shall perform such other duties as may be assigned to him by order of the Lieutenant Governor in Council.*

(*3*) *Every such reporter shall take the following oath before a judge of the court and the same shall be filed by the clerk:*

*I , do solemnly and sincerely promise and swear that I will faithfully take and report the evidence and proceedings at the trial in each case in which it may be my duty to act as shorthand reporter. So help me God.*

(*4*) *Any copy of the evidence or any portion thereof certified by the reporter taking the same or by the clerk of the court with whom the same has been filed shall for all purposes have the same effect as the original evidence.* 1903, Sess. 1, c. 8, s. 1.

## III.—*Subpoena.*

**Subpœna for witness in chambers**

288. When a subpœna is required for the attendance of a witness for the purpose of proceedings in chambers such subpœna shall issue from the clerk's office upon a note from the judge. [E. 510.] C. O. 21, R. 288.

**Service of subpœna**

289. The service of a subpœna shall be effected by delivering a copy of the writ and of the indorsement thereon and at the same time producing the original writ. [E. 514.] C. O. 21, R. 289.

## IV.—*Perpetuating Testimony.*

**Action to perpetuate testimony**

290. Any person who shall under the circumstances alleged by him to exist become entitled upon the happening of any future event to any office or to any estate or interest in any property real or personal the right or claim to which cannot by him be brought to trial before the happening of such event may commence an action to perpetuate any testimony which may be material for establishing such right or claim. [E. 517.] C. O. 21, R. 290.

**Witnesses**

291. Witnesses shall not be examined to perpetuate testimony unless an action has been commenced for the purpose. [E. 519.] C. O. 21, R. 291.

**Trial**

292. No action to perpetuate the testimony of witnesses shall be set down for trial. [E. 520.] C. O. 21, R. 292.

## ORDER XXVII.

### AFFIDAVITS AND DEPOSITIONS.

**Evidence on motions, etc.**

**Cross examination**

293. Upon any motion, petition or summons evidence may be given by affidavit; but the court or judge may on the application of either party order the attendance for cross examination of the persons making any such affidavit and may make such interim order or otherwise as appears necessary to meet the justice of the case. [E. 521.] C. O. 21, R. 293.

**Intituling affidavits**

294. Every affidavit shall be intituled in the cause or matter in which it is sworn; but in every case in which there is more than one plaintiff or defendant it shall be sufficient to state the full name of the first plantiff or defendant respectively and that there are other plaintiffs or defendants as the case may be; and the costs occasioned by any unnecessary prolixity in any such title shall be disallowed. [E. 522.] C. O. 21, R. 294.

**Affidavits confined to facts**

**Statements of belief**

295. Affidavits shall be confined to such facts as the witness is able of his own knowledge to prove except on interlocutory motions on which statements as to his belief with the grounds thereof may be admitted. The costs of every affidavit which shall unnecessarily set forth matters of hearsay or argumentative matter or copies of or extracts from documents shall be paid by the party filing the same. [E. 523.] C. O. 21, R. 295.

**Officers for oaths**

296. Affidavits sworn in the North-West Territories shall be sworn before a judge, clerk of the court or deputy clerk, notary public, justice of the peace or commissioner empowered to administer oaths. [E. 524.] C. O. 21, R. 296.

**Jurat: time and place of oath**

297. Every person administering oaths shall express the time when and the place where he shall take any affidavit or recognizance; otherwise the same shall not be held authentic nor be admitted to be filed without the leave of the court or judge. [E. 525.] C. O. 21, R. 297.

**Officers for oaths out of Territories**

298. All examinations, affidavits, declarations, affirmations and attestations in causes or matters depending in the supreme court may be sworn and taken out of the North-West Territories in any part of the Dominion of Canada or in Great Britain or Ireland, or the Channel Islands, or in any colony, island or plantation, or place under the dominion of her

Majesty in foreign parts before any judge, court, notary public or person lawfully authorised to administer oaths in such country, colony, island, plantation or place respectively or before any of her Majesty's consuls or vice consuls in any foreign part out of her Majesty's dominions or before a judge of a court of record or a notary public under his hand and seal or before a commissioner appointed for the purpose of taking affidavits outside of the North-West Territories to be used within the said Territories or a commissioner duly appointed by the judge for such purpose and the judges and other officers of the supreme court shall take judicial notice of the seal or signature as the case may be of any such court, judge, notary public, person, consul or vice consul, attached, appended or subscribed to any such examinations, affidavits, affirmations, attestations and declarations. [E. 526.] C. O. 21, R. 298.

Form of affidavits

299. Every affidavit shall be drawn up in the first person and shall be divided into paragraphs and every paragraph shall be numbered consecutively and as nearly as may be shall be confined to a distinct portion of the subject. No costs shall be allowed for any affidavit or part of an affidavit substantially departing from this rule. [E. 527.] C. O. 21, R. 299.

Description of deponent Signature

300. Every affidavit shall state the description and true place of abode of the deponent and shall be signed by him. [E. 528.] C. O. 21, R. 300.

Affidavits by several deponents

301. In every affidavit made by two or more deponents the names of the several persons making the affidavit shall be inserted in the jurat except that if the affidavit of all the deponents is taken at one time by the same officer it shall be sufficient to state that it was sworn by both or all of the "above-named" deponents. [E. 529.] C. O. 21, R. 301.

Affidavits, etc, to be filed

302. Every affidavit used in a cause, matter or proceeding shall be filed. [E. 530.] C. O. 21, R. 302.

Scandalous matter

303. The court or judge may order to be struck out from any affidavit any matter which is scandalous and may order the costs of any application to strike out such matter to be paid by the offending party. [E. 531.] C. O. 21, R. 303.

Alterations in affidavits

304. No affidavit having in the jurat or body thereof any interlineation, alteration or erasure shall without leave of the court or judge be read or made use of in any matter depending in court unless the interlineation or alteration (other than by erasure) is authenticated by the initials of the officer taking

the affidavit nor in the case of an erasure unless the words or figures appearing at the time of taking the affidavit to be written on the erasure are written and signed or initialled in the margin of the affidavit by the officer taking it. [E. 532.] C. O. 21, R. 304.

**Affidavits by illiterate or blind person**

305. Where an affidavit is sworn by any person who appears to the officer taking the affidavit to be illiterate or blind the officer shall certify in the jurat that the affidavit was read in his presence to the deponent, that the deponent seemed perfectly to understand it and that the deponent made his signature or mark in the presence of the officer. No such affidavit shall be used in evidence in the absence of this certificate unless the court or judge is otherwise satisfied that the affidavit was read over to and appeared to be perfectly understood by the deponent. [E. 533.] C. O. 21, R. 305.

**Use of defective affidavits**

306. The court or judge may receive any affidavit sworn for the purpose of being used in any cause or matter notwithstanding any defect by misdescription of parties or otherwise in the title or jurat or any other irregularity in the form thereof and may direct a memorandum to be made on the document that it has been so received. [E. 534.] C. O. 21, R. 306.

**Office copies**

307. A copy of an affidavit may in all cases be used the original affidavit having been previously filed and the copy duly authenticated with the certificate of the clerk with the seal of the court. [E. 535.] C. O. 21, R. 307.

**Affidavit sworn before advocate or agent**

308. No affidavit shall be sufficient if sworn before the advocate acting for the party on whose behalf the affidavit is to be used or before any agent of such advocate or before the party himself. [E. 536.] C. O. 21, R. 308.

**or clerk or partner**

309. Any affidavit which would be insufficient if sworn before the advocate himself shall be insufficient if sworn before his clerk or partner. [E. 537.] C. O. 21, R. 309.

**Time limited for filing**

310. Where a special time is limited for filing affidavits no affidavit filed after that time shall be used unless by leave of the court or judge. On motions founded on affidavits either party may by leave of the court or judge make affidavits in answer to the affidavits of the opposite party as to new matter arising out of such affidavits. [E. 538.] C. O. 21, R. 310.

**Affidavits in answer**

Affidavits on *ex parte* motions

311. Except by leave of the court or judge no order made *ex parte* in court founded on any affidavit shall be of any force unless the affidavit on which the application was made was actually made before the order was applied for and produced or filed at the time of making the application. [E. 539.] C. O. 21, R. 311.

Use in chambers of affidavits used in court

312. All affidavits which have been previously made and read in court upon any proceedings in a cause or matter may be used before a judge in chambers. [E. 541.] C. O. 21, R. 312.

Affidavits of service

313. Affidavits of service upon any party must state when, where and how and by whom such service was effected. [E. 1020.] C. O. 21, R. 313.

Alterations in verified accounts

314. Every alteration in an account verified by affidavit shall be marked with the initials of the commissioner or officer before whom the affidavit is sworn and such alteration shall not be made by erasure. [E. 542.] C. O. 21, R. 314.

Exhibits, reference to

315. Accounts, extracts and other documents referred to by affidavit shall not be annexed to the affidavit or referred to in the affidavit as annexed but shall be referred to as exhibits. [E. 543.] C. O. 21, R. 315.

Certificate on exhibit

316. Every certificate on an exhibit referred to in an affidavit signed by the commissioner or officer before whom the affidavit is sworn shall be marked with the short title of the cause or matter. [E. 544.] C. O. 21, R. 316.

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## ORDER XXVIII.

### MOTION FOR JUDGMENT.

Judgment on motion

317. Except where it is otherwise provided that the judgment may be obtained in any other manner the judgment of the court shall be obtained by motion for judgment. [E. 559.] C. O. 21, R. 317.

Judgment on findings of jury

Setting aside

318. Where at or after a trial with a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment on the ground that the judgment directed to be entered is wrong by reason that the finding of the jury upon the questions submitted to them has not been properly entered. [E. 561.] C. O. 21, R. 318.

**Setting aside judgment directed to be entered by judge**

319. Where at or after a trial by a judge either with or without a jury the judge has directed that any judgment be entered any party may apply to set aside such judgment and enter any other judgment upon the ground that upon the finding as entered the judgment so directed is wrong. [E. 562.] C. O. 21, R. 319.

**Application to court *en banc***

320. An application under the two next preceding rules shall be to the court *en banc*. [E. 563.] C. O. 21, R. 320.

**Setting down motion for judgment after issues tried**

321. When issues have been ordered to be tried or issues or questions of fact to be determined in any manner the plaintiff may set down a motion for judgment as soon as such issues or questions have been determined. If he does not set down such a motion and give notice thereof to the other parties within ten days after his right so to do has arisen then after the expiration of such ten days any defendant may set down a motion for judgment and give such notice thereof to the other parties. [E. 565.] C. O. 21, R. 321.

**After trial of some of issues ordered**

322. When issues have been ordered to be tried or issues or qustions of fact to be determined in any manner and some only of such issues or questions of fact have been tried or determined any party who considers that the result of such trial or determination renders the trial or determination of the others of them unnecessary or renders it desirable that the trial or determination thereof should be postponed may apply to the court or judge for leave to set down a motion for judgment without waiting for such trial or determination; and the court or judge may if satisfied of the expediency thereof give such leave upon such terms if any as shall appear just and may give any directions which may appear desirable as to postponing the trial of the other issues of fact. [E. 566.] C. O. 21, R. 322.

**Motion for judgment**

**Motion to be set down within one year**

323. No motion for judgment shall except by leave of the court or judge be set down after the expiration of one year from the time when the party seeking to set down the same first became entitled so to do. [E. 567.] C. O. 21, R. 323.

**Motion for judgment or new trial**

**Inferences in fact, etc.**

324. Upon a motion for judgment or upon an application for a new trial the court may draw all inferences of fact not inconconsistent with the finding of the jury and if satisfied that it has before it all the materials necessary for finally determining the questions in dispute or any of them or for awarding any relief sought give judgment accordingly or may if it shall be

of opinion that it has not sufficient materials before it to enable it to give judgment direct the motion to stand over for further consideration and direct such issues or questions to be tried or determined and such accounts and inquiries to be taken and made as it may think fit. [E. 568.] C. O. 21, R. 324.

**Court or judge may direct any application to be turned into motion for judgment or hearing of cause**

325. When it is made to appear to the court or judge on the hearing of any application which may be pending before the court or judge that it will be conducive to the ends of justice to permit it, the court or judge may direct any application to be turned into a motion for judgment or hearing of the cause or matter; and thereupon the court or judge may make such order as to the time and manner of giving the evidence in the cause and matter and with respect to the further prosecution thereof as the circumstances of the case may require; and upon the hearing it shall be discretionary with the court or judge to either pronounce a judgment or make such order as the court or judge deems expedient. C. O. 21, R. 325.

**Court or judge may permit service of notice of motion for judgment before appearance**

326. Where at any time after the writ of summons has been issued it is made to appear to the court or judge on an *ex parte* application that it will be conducive to the ends of justice to permit a notice of motion for a judgment to be forthwith served the court or judge may order the same accordingly and when such permission is granted the court or judge is to give directions as to the service of the notice of motion and affidavits as may be expedient. Upon the hearing of such motion the court or judge instead of granting or refusing the application may give such directions for the examination of either parties or witnesses or for the making of further inquiries or with respect to the further prosecution of the suit as the circumsances of the case may require and upon such terms as to costs as the court or judge think right. C. O. 21, R. 326.

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## ORDER XXIX.

### JUDGMENT AND ENTRY OF JUDGMENT.

**Recording orders, decrees and judgments**

**Certified copies evidence**

327. Except where otherwise provided every order or decree and every other judgment that the judge may so direct shall be entered by the proper officer at length in a book to be kept for such purpose properly indexed and a copy of such entry certified by the proper officer under the seal of the court shall be received for all purposes as of the same force and effect as such original order, decree or judgment. [E. 569.] C. O. 21, R. 327.

**Judgment to be entered as of date pronounced**

328. When any judgment is pronounced by the court or judge the entry of judgment shall be dated as of the day on which such judgment is pronounced unless the court or judge shall otherwise order and the judgment shall take effect from that date:

Provided that by special leave of the court or judge a judgment may be antedated or postdated. [E. 571.] C. O. 21, R. 328.

**Date of entry in other cases**

329. In all cases not within the last preceding rule the entry of judgment shall be dated as of the day on which the requisite documents are left with the proper officer for the purpose of such entry and the judgment shall take effect from that date. [E. 572.] C. O. 21, R. 329.

**Time to be stated for doing any act ordered to be done**

330. Every judgment or order made in any cause or matter requiring any person to do an act thereby ordered shall state the time or the time after service of the judgment or order within which the act is to be done and upon the copy of the judgment or order which shall be served upon the person required to obey the same there shall be indorsed a memorandum in the words or to the effect following namely:

**Memorandum to be indorsed**

"If you the within named *A.B.* neglect to obey this judgment (or order) by the time therein limited you will be liable to process of execution for the purpose of compelling you to obey the same judgment (or order)." [E. 573.] C. O. 21, R. 330.

**Entry of judgment on production of affidavit or document**

331. Where it is provided that any judgment may be entered upon the filing of any affidavit or production of any document the clerk shall examine the affidavit or document produced and if the same be regular and contain all that is by law required he shall enter judgment accordingly. [E. 574.] C. O. 21, R. 331.

**[illegible]**

332. When any judgment may be entered pursuant to any order or certificate or return to any writ the production of such order, certificate or return shall be sufficient authority to the officer to enter judgment accordingly. [E. 575.] C. O. 21, R. 332.

**[illegible]**

333. In any cause or matter where the defendant has appeared by a solicitor no order for entering judgment shall be made by consent unless the consent of the defendant is given by his solicitor or agent. [E. 576.] C. O. 21, R. 333.

Consent judgment

Defendant in person

334. When the defendant has not appeared or has appeared in person no such order shall be made unless the defendant attends before a judge and gives his consent in person or unless his written consent is attested by an advocate acting on his behalf. [E. 578.] C. O. 21, R. 334.

Satisfaction of judgment

335. Satisfaction of a judgment shall be signed by the plaintiff and his personal representatives or by an advocate specially authorised for that purpose in writing unless the judge on special circumstances set forth by affidavit dispense with such authorisation. C. O. 21, R. 335.

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## ORDER XXX.

### EXECUTION.

### I.—*Execution Generally.*

Judgment or order to be obeyed without demand

336. Where any person is by order directed to pay any money or deliver up or transfer any property real or personal to another it shall not be necessary to make any demand thereof but the person so directed shall be bound to obey such order upon being duly served with a copy of the same without demand. [E. 579.] C. O. 21, R. 336.

Conditional judgment

Breach or non-performance of condition

337. Where any person who has obtained any judgment or order upon condition does not perform or comply with such condition he shall be considered to have waived or abandoned such judgment or order so far as the same is beneficial to himself and any other person interested in the matter may on breach or nonperformance of the condition take either such proceedings as the judgment or order may in such case warrant or such proceedings as might have been taken if no such judgment or order had been made unless the court or judge shall otherwise direct. [E. 580.] C. O. 21, R. 337.

Execution to enforce payment of money

338. Every person to whom any sum of money or any costs shall be payable under a judgment or order so soon as the money or costs shall be payable shall be entitled to sue out one or more writ or writs of *fieri facias* to enforce payment thereof subject nevertheless as follows:

Where time allowed by judgment

(*a*) If the judgment or order is for payment within a period therein mentioned no such writ as aforesaid shall be issued until after the expiration of such period;

(*b*) The court or a judge may at or after the time of giving judgment or making an order stay execution until such time as they or he shall think fit. [E.595.] C. O. 21, R. 338.

Stay of execution

339. A judgment for the recovery or for the delivery or the possession of land may be enforced by writ of possession. [E. 583.] C. O. 21, R. 339.

Recovery of land

340. A judgment for the recovery of any property other than land or money may be enforced by writ for delivery of the property. [E. 584.] C. O. 21, R. 340.

Recovery of other property

341. A judgment requiring any person to do any act other than the payment of money or to abstain from doing anything may be enforced by writ of attachment or by committal. [E. 585.] C. O. 21, R. 341.

Judgment to do or abstain from any act

342. Where a judgment or order is to the effect that any party is entitled to any relief subject to or upon the fulfilment of any condition or contingency the party so entitled may upon the fulfilment of the condition or contingency and demand made upon the party against whom he is entitled to relief apply to the judge for leave to issue execution against such party; and the judge may if satisfied that the right to relief has arisen according to the terms of the judgment or order order that execution issue accordingly or may direct that any issue or question necessary for the determination of the rights of the parties be tried in any of the ways in which questions arising in any action may be tried. [E. 587.] C. O. 21, R. 342.

Judgment on condition

Execution of

343. Where a judgment or order is against a firm execution may issue:

Execution in case of judgment against firms

(*a*) Against any property of the partnership;

(*b*) Against the property of any person who has appeared in his own name or who has admitted on the pleadings that he is or who has been adjudged to be a partner;

(*c*) Against the property of any person who has been individually served as a partner with a writ of summons and has failed to appear;

(2) If the party who has obtained judgment or an order claims to be entitled to issue execution against any other person as being a member of the firm he may apply to a judge for

Application for leave to issue against members of firm leave so to do; and a judge may give such leave if the liability be not disputed or if such liability be disputed may order that the liability of such person be tried and determined in any manner in which any issue or question in an action may be tried and determined; but except as against any property of the partnership a judgment against a firm shall not render liable, release or otherwise affect any member thereof who was out of the jurisdiction when the writ was issued and who has not appeared to the writ unless he has been made a party to the action or has been served with the writ in the action. [E. 648*h*.] C. O. 21, R. 343.

**Judgment not to affect partner out of jurisdiction**

**Praecipe for execution**

344. No writ of execution shall be issued without the party issuing it or his advocate filing a *praecipe* for that purpose; the *praecipe* shall contain the title of the action, the reference to the record, the date of the judgment and of the order if any directing the execution to be issued, the names of the parties against whom or of the firm against whose goods the execution is to be issued and shall be signed by or on behalf of the advocate of the party issuing it or by the party issuing it if he does so in person. [E. 590.] C. O. 21, R. 344.

**Execution to any judicial district**

345. When entitled thereto the party in whose favour such judgment has been entered may have one or more writs of execution directed to the sheriff of any one of the judicial districts for levying within the judicial district named in such writ the amount due on such judgment and legal interest thereon and costs subsequent to such judgment by distress and sale of the goods and chattels and personal property liable to seizure and sale for debt of the party against whom the said judgment has been so entered. C. O. 21, R. 345.

**Date of execution**
**Duration**
**Renewal**

346. Every writ of execution shall bear date the day of its issue and shall remain in force for two years from its date (and no longer if unexecuted unless renewed) but such writ may at any time before its expiration and so from time to time during the continuance of the renewed writ be renewed by the party issuing it for two years from the date of such renewal by being marked in the margin with a memorandum to the effect following: "Renewed for two years from the day of A.D. 1 ," (signed by the clerk); and the production of a writ of execution marked as renewed in manner aforesaid shall be sufficient evidence of its having been so renewed; and a writ of execution so renewed shall have effect and be entitled to priority according to the time of the original delivery thereof. [E. 591.] C. O. 21, R. 346.

347. Every writ of execution for the recovery of money shall be indorsed with a direction to the sheriff or other officer or person to whom the writ is directed to levy the money really due and payable and sought to be recovered under the judgment or order stating the amount and also to levy legal interest thereon, if sought to be recovered, together with sheriff's fees, poundage and other expenses of execution. [illegible]

**Indorsement of direction to sheriff**

348. As between the original parties to a judgment or order execution may issue at any time within six years from the recovery of the judgment or the date of the order. [illegible]

**Execution may issue within six years**

[illegible]

process as if he were a party to such cause or matter and any person not being a party to a cause or matter against whom obedience to any judgment or order may be enforced shall be liable to the same process for enforcing obedience to such judgment or order as if he were a party to such cause or matter. [E. 604.] C. O. 21, R. 351.

Facts arisen too late to be pleaded

Stay of execution

352. No proceeding by *audita querela* shall hereafter be used; but any party against whom a judgment has been given may apply to the judge for a stay of execution or other relief against such judgment upon the ground of facts which have arisen too late to be pleaded and the judge may give such relief and upon such terms as may be just. [E. 605.] C. O. 21, R. 352.

Court may order act to be done at expense of party refusing

353. If a mandamus granted in an action or otherwise or a mandatory order, injunction or judgment for the specific performance of any contract be not complied with the court or judge besides or instead of proceedings against the disobedient party for contempt may direct that the act required to be done may be done so far as practicable by the party by whom the judgment or order has been obtained or some other person to be appointed by the court or judge at the cost of the disobedient party and upon the act being done the expenses incurred may be ascertained in such manner as the court or judge may direct and execution may issue for the amount so ascertained and costs. [E. 608.] C. O. 21, R. 353.

Enforcement of judgment against corporation

354. Any judgment or order against a corporation wilfully disobeyed may by leave of the court or judge be enforced by execution against the corporate property or by attachment of the persons of the directors or other officers. [E. 609.] C. O. 21, R. 354.

Forms of execution

355. Every writ of execution shall follow form B in the schedule hereto adapted to the circumstances of each case and where form B is not appropriate the form shall be settled by the judge on *ex parte* application. C. O. 21, R. 355.

Effect of execution in sheriff's hands as against goods of judgment debtor.

356. Except as hereinafter mentioned every writ of execution against goods and chattels shall at and from the time of its delivery to the sheriff to be executed bind all the goods and chattels or any interest in all the goods and chattels of the judgment debtor within the judicial district of the said sheriff and shall take priority to any chattel mortgage, bill of sale or assignment for the benefit of all or any of the creditors of the

judgment debtor executed by him after the receipt by the sheriff of such writ of execution or which by virtue of the provisions of *The Bills of Sales Ordinance* has not taken effect prior to such receipt as against the creditor or creditors' interest under the execution but shall not take priority to a *bona fide* sale by the judgment debtor followed by an actual and continued change of possession of any of his goods and chattels without actual notice to the purchaser that such writ is in the hands of the sheriff of the judicial district wherein the said judgment debtor resides or carries on business. C. O. 21, R. 356. Add Amendment S. L. A. Act 1907 P. 274. Sec I.

S.L.O. 1908. 76

Notice of sheriff's sale

357. No sale of personal property except grain seized under any writ of execution or process shall be made without such sale being advertised for at least ten days by public notice thereof describing the property to be sold copies of which notice shall be posted in the offices of the clerk and sheriff and at least five public places in the locality where the same is to be sold; but when the articles seized are of a perishable nature or are of such a character as not to allow of a delay of ten days as hereinbefore provided the same may be sold forthwith. C. O. 21, R. 357.

Perishable articles

Equity of redemption in goods

358. On any writ of execution against goods and chattels the sheriff charged with the execution of the same may seize and sell the interest or equity of redemption in any goods or chattels including leasehold interests in any lands of the party against whom the writ has issued and such sale shall convey whatever interest the mortgagor had in such goods and chattels at the time of the seizure. C. O. 21, R. 358.

Leasehold interests

Seizure of money, bank notes, cheques, etc.

359. The sheriff having the execution of any writ of execution against goods may seize any money or bank notes, any cheques, bills of exchange, promissory notes, bonds, mortgages, specialties or other securities for money belonging to the execution debtor and such sheriff may pay and assign them to the execution creditor at the sum actually due on and secured by them respectively if he will accept them as money collected or the sheriff may sue in his own name for the recovery of the sums secured thereby when the time of payment thereof has arrived and on payment execute and give valid discharges therefor but no such sheriff or other party shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, bond, specialty or other security unless the party who sued out the execution furnishes sufficient security

to indemnify him from all costs and expenses to be incurred in the prosecution of the action or to which he may become liable in consequence thereof. C. O. 21, R. 359.

**Seizure of mortgages belonging to debtor**

360. The officer charged with the execution of any writ of execution against goods may seize thereunder any registered mortgage in favour of the execution debtor whether upon lands or chattels by delivering a notice in writing of such seizure to the registrar or clerk in the office where such mortgage is registered; but no such mortgage shall be affected or charged by any writ of execution until delivery of such notice.

**Entry in register**

(2) Upon receipt of such notice the clerk or registrar shall make an entry thereof in the register for which he shall be entitled to a fee of fifty cents:

**Notice to mortgagor**

Provided that unless and until personal service of a notice of seizure on the mortgagor is made he shall not be affected thereby and any payments made by him to the mortgagee before service of such notice shall be deemed good and valid. C. O. 21, R. 360.

**Transfer of cheques, etc., discharges sheriff**

361. The transference by the sheriff to the execution creditor of any cheques or property named in rule 359 shall discharge the sheriff to the extent of the amount due on and secured thereby. C. O. 21, R. 361.

**Payment by sheriff of moneys realised**

362. Subject to the provisions of *The Creditors' Relief Ordinance* the sheriff shall pay over to the execution creditor or his advocate all moneys recovered or a sufficient sum to discharge the amount directed by the writ to be levied; but the sheriff shall in all cases be entitled to first deduct his fees and expenses. C. O. 21, R. 362.

**Growing crops**

363. No sale of growing crops whether grain or roots shall take place until after the same have been harvested and threshed or taken and removed from the ground when after all charges for harvesting, threshing, taking and removing have been paid and all exemptions been claimed and reserved the balance may be sold. C. O. 21, R. 363.

**Issue of execution lands**

364. Any person who becomes entitled to issue a writ of execution against goods may at or after the time of issuing the same issue a writ of execution against the lands of the person liable in any judicial district provided that not less than $50 remain due and unpaid on the judgment and deliver the same to the sheriff of the district named in the writ and charged with the execution of the writ of execution against

goods at or after the time of delivery to him of the writ against goods and either before or after any return thereof; but such officer shall not sell the said lands within less than one year from the day on which the writ against lands is delivered to him nor until three months' notice of such sale has been posted in a conspicuous place in the sheriff's and clerk's offices respectively and published two months in the newspaper nearest the lands to be sold. **Sale of lands** **Time for Advertisement of**

(*2*) Where more than one newspaper is published in the same locality the notice of sale may be published in either one. C. O. 21, R. 364.

365.. No sale shall be had under any execution against lands until after a return of *nulla bona* in whole or in part with respect to an execution against goods in the same suit or matter by the same officer. Where there are no bidders or no sufficient bid has been offered for the land to be sold as aforesaid the sheriff may adjourn such sale from time to time and a notice of the time and place of such adjourned sale shall be posted by him in a conspicuous place in the sheriff's and clerk's offices respectively and such notice shall be sufficient notice of such adjourned sale. C. O. 21, R. 365. **Return *nulla bona* before sale of lands** **Adjournment of sale**

366. In cases where the sheriff or other officer shall sell lands under execution for which a certificate of title has not been granted a transfer executed by him in the form prescribed for lands for which a certificate of title has been granted shall be sufficient to convey the execution debtor's interest therein to the purchaser. C. O. 21, R. 366. **Form of transfer where certificate of title not granted**

367. No sheriff shall make any return of *nulla bona* either in whole or in part to any writ against goods until the whole of the goods of the execution debtor in the district named in the writ liable to seizure which he can find have been exhausted. C. O. 21, R. 367. **Return *nulla bona***

368. If the amount authorised to be made and levied under the writ against goods is made and levied thereunder the person issuing the writ against lands shall not be entitled to the expenses thereof of any seizure or advertisement thereunder and the return to be made by the officer charged with the execution of the writ against lands to such writ shall be to the effect that the amount has been so made and levied as aforesaid. C. O. 21, R. 368. **If money made on goods no costs execution lands** **Return in such case**

Sale after expiry of writ

369. Where under any writ of execution while in force personal property has been seized the sheriff may proceed to sell the same although the writ of execution has expired. C. O. 21, R. 369.

Execution for delivery of property or recovery of assessed value

370. Where it is sought to enforce a judgment made for the recovery of any property other than land or money the court or judge may upon the application of the plaintiff or person entitled thereto order that execution shall issue for the delivery of the property without giving the defendant or other party the option of retaining the property and paying the assessed value if any; or at the option of the plaintiff or person entitled thereto that the sheriff levy and make the assessed value with or without costs in either instance as may be just and for such purpose separate writs may be issued for the costs. [E. 647.] C. O. 21, R. 370.

Writ of possession for recovery of land

371. A judgment or order that a party do recover possession of any land or that any person therein named do deliver up posssession of any land to some other person may, without any order for such purpose, after fifteen days from the entry of the judgment or service of a copy of the order, be enforced by a writ of possession. [E. 644 and 645.] C. O. 21, R. 371.

Execution for recovery of land and costs

372. Upon any judgment or order for the recovery or delivery of possession of any land and costs there may be either one writ or separate writs of execution for the recovery of possession and for the costs, at the election of the successful party. [E. 646.] C. O. 21, R. 372.

### II.—*Poundage, Interest &c.*

Levy of interest, poundage and expenses

373. Upon any execution against lands or goods the sheriff may in addition to the sum recovered by the judgment levy the poundage fees, expenses of the execution and interest upon the amount so recovered from the time of entering the judgment. C. O. 21, R. 373.

Poundage: amount chargeable in certain cases

374. In case a part only is levied by the sheriff on or by force of any execution against goods and chattels the sheriff shall be entitled besides his fees and expenses of execution to poundage only upon the amount so made by him whatever be the sum indorsed upon the writ and in case the personal estate of the defendant is seized or advertised on or under an execution but not sold by reason of satisfaction having been otherwise obtained or from some other cause and no money is actually made by the sheriff on or by force of such execution

the sheriff shall be entited to the fees and expenses of execution and poundage only on the value of the property seized not exceeding the amount indorsed on the writ or such less sum as a judge of the court out of which the writ issued may deem reasonable under the circumstances of the case. Any party interested may apply to the judge to fix such sum either before or after taxation of the sheriff's bill of costs, charges and expenses or on review or appeal from such taxation. C. O. 21, R. 374.

**Sheriff's charges where satisfaction obtained under writ in other judicial district**

375. In the case of writs of execution upon the same judgment to several judicial districts wherein the personal estate of the judgment debtor or debtors has been seized or advertised but not sold by reason of satisfaction having been obtained under or by virtue of a writ in some other judicial district and no money has been actually made on such execution the sheriff shall not be entitled to poundage but to mileage and fees only for the services actually rendered and performed by him and the court or any judge thereof may allow him a reasonable charge for such services in case no special fees therefor are assigned in any tariff of costs. C. O. 21, R. 375.

**Sheriff charges on withdrawal, stay, etc., of execution**

376. Upon the settlement of an execution either in whole or in part by payment, levy or otherwise or upon the withdrawal, stay or setting aside of an execution the sheriff or officer claiming any fees, poundage, incidental expenses or remuneration which have not been taxed shall upon being required by any party interested within forty-eight hours deliver a copy of his bill in detail to the applicant. Such bill shall be taxed by the clerk of the court upon the applicant obtaining and serving an appointment for such taxation. C. O. 21, R. 376.

**Sheriff's costs**

**Taxation Tender**

377. No sheriff shall collect any fees, costs, poundage or incidental expenses after having been required to have the same taxed without taxation; and upon tender of the amount taxed no fees, costs, poundage or incidental expenses in respect of proceedings subsequently taken shall be allowed to any sheriff. C. O. 21, R. 377.

**Duty of taxing officer**

378. It shall be the duty of every taxing officer above referred to to grant an appointment for the taxation of and to tax the bills of costs presented to him for taxation as herein required upon payment or tender of his fees and to give when requested a certificate of such taxation and the amount thereof. C. O. 21, R. 378.

**Revision of taxation**

379. Either party dissatisfied with the taxation may appeal to a judge for a revision of such taxation. C. O. 21, R. 379.

## ORDER XXXI.

### DISCOVERY IN AID OF EXECUTIONS.

Examination of judgment debtor or officer of corporation

380. When a judgment or order is for the recovery or payment of money the party entitled to enforce it may apply to a judge *ex parte* for an order that the debtor liable under such judgment or order or in the case of a corporation that any officer thereof be orally examined as to whether any and what debts are owing to the debtor and whether the debtor has any and what property or means of satisfying the judgment or order before the judge or whom he may appoint; and the judge may make an order for the attendance and examination of such debtor or other person before the clerk of the court or other person to be named in the order and for the production of any books or documents.

Examination of clerk or employee, former clerk or employee or transferee of debtor's property

(*2*) Where judgment has been obtained as aforesaid the court or judge may *ex parte* on the application of the party entitled to enforce the judgment order any clerk or employee or former clerk or employee of the judgment debtor or any person or officer or officers of any corporation to whom the debtor has made a transfer of his property or effects since the date when the liability or debt which was the subject of the action in which judgment was obtained was incurred to attend before the clerk of the court or other person to be named in the order and to submit to be examined upon oath as to the estate and effects of the debtor and as to the property and means he had when the liability or debt aforesaid was incurred and as to the property or means he still has of discharging the judgment and as to the disposal he has made of any property since contracting the debt or incurring the liability and as to any and what debts are owing to him.

Use of examination

(*3*) The examination is to be for the purpose of discovery only and no order is to be made on the evidence given on such examination but any such examination may be read on any subsequent proceedings between the same parties or between the execution creditor and any transferee of the property or effects of the execution debtor or in any proceeding to obtain payment directly or indirectly whether by attachment of debts, equitable execution or otherwise. [E. 610.] C. O. 21, R. 380.

Difficulty in enforcing judgment other than for money

381. In case of a judgment or order other than for th recovery or payment of money if any difficulty arises in or about the execution or enforcement thereof any party interested may apply to a judge and the judge may make such order thereon for the attendance and examination of any party or

otherwise as may be just and may direct how such judgment or order may be enforced or executed. [E. 611.] C. O. 21, R. 381.

382. Any person liable to be examined under any of the preceding rules of this order shall be entitled to the like conduct money and payment for expenses and loss of time as upon attendance at a trial in court and may be compelled to attend and testify and to produce books and documents in the same manner and subject to the same rules of examination and the same consequences of neglecting to attend or refusing to disclose the matters in respect of which he may be examined as in the case of a witness on a trial. C. O. 21, R. 382.

Conduct money

Production documents

Rules of examination

Disobedience

383. The costs of any application under this order and of any proceedings arising from or incidental thereto shall be in the discretion of the judge. [E. 612.] C. O. 21, R. 383.

Costs

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## ORDER XXXII.

### ATTACHMENT OF DEBTS.

384. Any plaintiff in an action for a debt or liquidated demand before or after judgment and any person who has obtained a judgment or order for the recovery or payment of money may issue a garnishee summons in the form or to the effect of form C in the schedule hereto. Such summons shall be issued by the clerk upon the plaintiff or judgment creditor, his advocate or agent filing an affidavit:

Issue of garnishee summons

(*a*) Showing the nature and amount of the claim or judgment against the defendant or judgment debtor and swearing positively to the indebtedness of the defendant or judgment debtor to the plaintiff or judgment creditor;

Affidavit therefor

(*b*) Stating to the best of the deponent's information and belief that the proposed garnishee (naming him ) is indebted to such defendant or judgment debtor. C. O. 21, R. 384.

385. Service of such summons on the garnishee shall bind any debt due or accruing due from the garnishee to the defendant or the judgment debtor.

Service binds debts

Manner of service

(*2*) The garnishee summons may be served whether on the garnishee, defendant or judgment debtor in any way that a writ of summons may be served; and the provisions relating to service of a writ of summons shall apply to service of a garnishee summons.

Service on defendent or judgment debtor

(*3*) A copy of the garnishee summons shall be served on the defendant or judgment debtor (or his advocate) within twenty days after service on the garnishee or such further time as a judge *ex parte* may order. C. O. 21, R. 385.

No order to go for payment to plaintiff until, etc.

386. No order shall be made against the garnishee or for payment out of any money paid into court by the garnishee until at least ten days after the service of the said summons on the defendant or judgment debtor and on the garnishee nor when a garnishee summons issues prior to judgment until the plaintiff shall have recovered a judgment against the defendant.

Application to set aside garnishee

(*2*) The defendant or judgment debtor or the garnishee or any person claiming to be interested in the moneys attached may apply to a judge in chambers to set aside the garnishee summons.

Payment out of court

(*3*) No money paid into court under these proceedings shall be paid out unless on the written consent of the parties interested except by order of the court or judge which order may be made *ex parte* or on such notice as the judge may direct. C. O. 21, R. 386.

Garnishee's costs

387. A garnishee paying money into court shall be entitled to deduct therefrom his necessary disbursements and costs (not exceeding $5) except when the debt due from him to the defendant or judgment debtor is larger than the amount of the plaintiff's claim and costs in which case the garnishee may deduct such costs and disbursements out of the balance in his hands but if such balance is not sufficient to cover such disbursements and costs he may deduct the difference from the amount to be paid into court. C. O. 21, R. 387.

North West Government garnishment against

388. The government of the North-West Territories may be garnisheed under the provisions of this order with regard to moneys due or accruing due to all persons permanently employed by the government of the Territories.

Service

(*2*) Such garnishee process shall be served upon *the Territorial treasurer or assistant Territorial treasurer in their respective offices.*

When rule applicable

(3) This rule shall only apply to causes of action arising on or after the first day of September in the year one thousand eight hundred and ninety-four. C. O. 21, R. 388, amended by 1901, c. 10, s. 5.

Default by garnishee

389. If the garnishee does not pay into court the amount due from him to the debtor or an amount equal to the claim or judgment and costs and does not dispute the debt due or claimed to be due from him to such debtor then the judge may after judgment has been entered against the primary debtor or at once when the garnishee summons is founded on a judgment already recovered order that judgment be entered up against the garnishee and that execution issue and it may issue accordingly to levy the amount due from such garnishee or so much thereof as may be sufficient to satisfy the judgment or order. [E. 624.] C. O. 21, R. 389.

Dispute by garnishee

390. If the garnishee disputes his liability or claims that the debt is not attachable he shall enter with the clerk within the time specified in the summons or such further time as the judge may allow a statement showing the grounds on which he disputes liability or claims that the debt is not attachable. After which, on application of the plaintiff or any other person interested on two days' notice given to the garnishee, the judge may fix a time and place for summarily determining the question of liability or whether the debt is attachable as the case may be; or may order that any issue or question necessary for determining such liability or whether the debt is attachable be tried and determined in any manner in which any issue or question in any action may be tried or determined and may direct who shall be the parties to such issue or question and any determination under this section whether summarily or otherwise shall form a judgment of the court and may be enforced as such. [E. 625.] C. O. 21, R. 390.

Trial of issue

Delay by plaintiff

391. If within two months after the appearance by the garnishee the plaintiff does not proceed to have the question of liability determined as hereby provided the garnishee may apply for an order to set aside the garnishee summons. C. O. 21, R. 391.

Application by garnishee

Suggestion of claim of third party

392. Whenever it is suggested by the garnishee or any person claiming to be interested that the debt attached belongs to some third person or that any third person has a lien or charge upon it the judge may order such third person to appear and state the nature and particuars of his claim upon such debt. [E. 626.] C. O. 21, R. 392.

Procedure when third person suggested as entitled

393. After hearing the allegations of any third person under such order as in the next preceding rule mentioned and of any other person whom by the same or any subsequent order the judge may order to appear or in case of such third person not appearing when ordered the judge may order execution to issue to levy the amount due from such garnishee or any issue or question to be tried or determined in manner aforesaid and may bar the claim of such third person or make such other order as such judge shall think fit upon such terms in all cases with respect to the lien or charge (if any) of such third person and to costs as the judge shall think just and reasonable. [E. 627.] C. O. 21, R. 393.

Garnishee discharged by payment or levy

394. Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him against the debtor to the amount paid or levied although such proceeding may be set aside or the judgment or order reversed or the plaintiff fail in his action. [E. 628.] C. O. 21, R. 394.

Costs in garnishee proceedings

395. The garnishee shall not be liable for the costs of the proceedings unless and in so far only as occasioned by setting up a defence which he knew or ought to have known was untenable; and the plaintiff or judgment creditor in garnishee proceedings shall be entitled to tax against the defendant or judgment debtor and add to the judgment the costs of such proceedings unless the judge otherwise orders and subject to this provision the cost of all parties shall be in the discretion of the judge. C. O. 21, R. 395.

Execution stayed till money due

396. No execution shall in any case issue to levy the money owing from any garnishee until and so far only as such money shall become fully due. C. O. 21, R. 396.

Exemption from garnishment

397. No debt due or accruing due to a mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages or salary shall be liable to seizure or attachment unless the said debt exceeds the sum of $25 and then only to the extent of the excess:

Exception

Provided that nothing in this rule contained shall apply to any case where the debt sued for or in respect of which the judgment was recovered has been contracted for board and lodging.

Payment out of exemption

*(2) If the said amount of $25 or any portion thereof is paid into court it shall not be necessary for the debtor to claim the same but he shall be entitled to have it paid out to him at*

*any time on application to the clerk but in the event of no such application being made until the expiration of two months after such payment in or after judgment is recovered against the debtor whichever is later the judgment creditor shall be entitled on application to the judge to have the said sum or so much thereof as may be sufficient to satisfy his judgment paid out to him.* C. O. 21, R. 397, amend. by c. 8 of 1903, Sess. 1, s. 2.

## ORDER XXXIII.

### INTERLOCUTORY ORDERS AS TO MANDAMUS, INJUNCTIONS OR INTERIM PRESERVATION OF PROPERTY.

**Interlocutory applications, how made**

398. Applications for interlocutory orders for mandamus, injunction or receiver or the interim preservation of property may be made *ex parte* in the first instance or by notice of motion or on summons in chambers:

Provided that on an *ex parte* application the judge may require notice to be given to any party or parties interested. C. O. 21, R. 398.

**Interim preservation of property**

399. When by any contract a *prima facie* case of liability is established and there is alleged as matter of defence a right to be relieved wholly or partially from such lability the court or judge may make an order for the preservation or interim custody of the subject matter of the litigation or may order that the amount in dispute be brought into court or otherwise secured. Application for an order under this rule may be made in chambers by summons or notice of motion by any party at any time after his right thereto appears from the pleadings or, if there be no pleadings, is made to appear by affidavit or otherwise to the satisfaction of the court or judge. [E. 657 and 663.] C. O. 21, R. 399.

**Order for sale of goods, etc.**

400. It shall be lawful for a judge on the application of any party to make any order for the sale by any person or persons named in such order and in such manner and on such terms as the judge may think desirable of any goods, wares or merchandise which may be of a perishable nature or likely to injure from keeping or which for any other just or sufficient reason it may be desirable to have sold at once. [E. 658.] C. O. 21, R. 400.

Detention, preservation or inspection of property

401. It shall be lawful for a judge upon the application of any party to a cause or matter and upon such terms as may be just to make any order for the detention, preservation or inspection of any property or thing being the subject of such cause or matter or as to which any question may arise therein and for all or any of the purposes aforesaid to authorise any person to enter upon or into any land or building in the possession of any party to such cause or matter and for all or any of the purposes aforesaid to authorise any samples to be taken or any observation to be made or experiment to be tried which may be necessary or expedient for the purpose of obtaining full information or evidence. [E. 659.] C. O. 21, R. 401.

Inspection by judge or jury

402. It shall be lawful for the judge by whom any cause or matter may be heard or tried with or without a jury or before whom any cause or matter may be brought, to inspect any property or thing concerning which any question may arise therein and in jury cases the judge may make all such orders upon the sheriff or other person as may be necessary to procure the attendance of the jury at such time and place and in such manner as he may think fit. [E. 660 and 661.] C. O. 21, R. 402.

Order for delivery of specific chattel claimed under lien or payment into court

403. Where an action is brought to recover or a defendant in his defence seeks by way of counterclaim to recover specific property other than land and the party from whom such recovery is sought does not dispute the title of the party seeking to recover the same but claims to retain the property by virtue of a lien or otherwise as security for any sum, the judge may at any time after such last mentioned claim appears from the pleadings or if there be no pleadings by affidavit or otherwise to the satisfaction of such judge, order that the party claiming to recover the property be at liberty to pay into court to abide the event of the action the amount of money in respect of which the lien or security is claimed and such further sum if any for interest and costs as such judge may direct and that upon such payment into court being made the property claimed be given up to the party claiming it. [E. 664.] C. O. 21, R. 403.

Allowance out of estate *pendente lite*

404. Where any real or personal estate forms the subject of any proceedings in the court and the judge is satisfied that the same will be more than sufficient to answer all the claims thereon which ought to be provided for in such proceedings the judge may at any time after the commencement of the proceedings allow to the parties interested therein or to any one or more of them the whole or part of the annual income of the real

estate or a part of the personal estate or the whole or a part of the income thereof up to such times as the judge shall direct. [E. 665.] C. O. 21, R. 404.

Injunction

405. An injunction shall be by a judgment or order and any such judgment or order shall have the effect which a similar judgment or order has in England. [E. 667.] C. O. 21, R. 405.

Injunction against wrongful act or breach of contract

406. In any cause or matter in which an injunction has been or might have been claimed the plaintiff may before or after judgment apply for an injunction to restrain the defendant or respondent from the repetition or continuance of the wrongful act or breach of contract complained of or from the commission of any injury or breach of contract of a like kind relating to the same property or right or arising out of the same contract and the judge may grant the injunction either upon or without terms as may be just. [E. 668.] C. O. 21, R. 406.

### MANDAMUS.

Mandamus

Statement of claim

407. The plaintiff in any action in which he shall claim a mandamus to command the defendant to fulfil any duty in the fulfilment of which the plaintiff is personally interested shall include the claim in his statement of claim. [E 719.] C. O. 21, R. 407.

Order upon defendant for performance

408. If judgment be given for the plaintiff the court or judge may by the judgment command the defendant either forthwith or on the expiration of such time and upon such terms as may appear to the court or judge to be just to perform the duty in question. The court or judge may also extend the time for the performance of the duty. [E. 721.] C. O. 21, R. 408.

Enforcement

409. In the event of noncompliance with the judgment as aforesaid the same may be enforced by prerogative mandamus as in England. C. O. 21, R. 409.

Protection of person acting under mandamus

410. No action or proceeding shall be commenced or prosecuted against any person in respect of anything done in obedience to a judgment or order for a mandamus. C. O. 21, R. 410.

Mandamus to be by judgment or order

411. No writ of mandamus shall hereafter be issued in any action but a mandamus shall be by judgment or order which shall have the same effect as a similar judgment or order has in England. [E. 722.] C. O. 21, R. 411.

## ORDER XXXIV.

### RECEIVERS.

Receiver
Security
Remuneration

412. Where an order is made directing a receiver to be appointed unless otherwise ordered the person to be appointed shall first give security to be allowed by a judge duly to account for what he shall receive as such receiver and to pay the same as the court or judge shall direct and the person so to be appointed shall unless otherwise ordered be allowed a proper salary or allowance. [E. 672.] C. O. 21, R. 412.

Time for filing accounts and payment of balances
Neglect of receiver

413. When a receiver is appointed with a direction that he shall pass accounts the judge shall fix the days upon which he shall annually or at longer or shorter periods file and pass such accounts and also the days upon which he shall pay the balances appearing due on the accounts so filed or such part thereof as shall be certified as proper to be paid by him and with respect to any such receiver as shall neglect to file and pass his accounts and pay the balances thereof at the times so to be fixed for that purpose as aforesaid the judge before whom any such receiver is to account may from time to time when his subsequent accounts are produced to be examined and passed disallow the salary therein claimed by such receiver and may also if he shall think fit charge him with interest upon the balances so neglected to be paid by him during the time the same shall appear to have remained in the hands of any such receiver. [E. 674.] C. O. 21, R. 413.

Default of receiver
Procedure on

414. In case of any receiver failing to file any account or affidavit or to pass such account or to make any payment or otherwise the receiver or the parties or any of them may be required to attend before the judge to show cause why such account or affidavit has not been filed or such account passed or such payment made or any other proper proceedings taken and thereupon such directions as shall be proper may be given by the judge including the discharge of any receiver and appointment of another and payment of costs. [E. 677.] C. O. 21, R. 414.

Receiver's accounts

415. When a receivership has been completed the book containing the accounts shall be deposited in the clerk's office. C. O. 21, R. 415.

Passing accounts

416. The accounts of liquidators and of guardians shall be passed and verified in the same manner as receivers' accounts. C. O. 21, R. 416.

## ORDER XXXV.

### ATTACHMENT OF PERSONAL PROPERTY.

417. After the commencement of any suit wherein the claim is for the recovery of a debt of $50 or upwards from the defendant to the plaintiff upon affidavit made by the plaintiff or one of several plaintiffs, if more than one, his or their agent, having a personal knowledge of the matter stating clearly and succinctly from what cause such debt arose and the amount thereof and that he has good reason to believe (giving reasons therefor) that the defendant:

Attachment of goods

Affidavits required

(*a*) Is about to abscond or has absconded from the Territories leaving personal property in any judicial district thereof liable to seizure under execution for debt; or

(*b*) Has attempted to remove such personal property out of the said Territories or to sell or dispose of the same with intent to defraud his creditors generally or the plaintiff in particular; or

(*c*) Keeps concealed to avoid service of process; and

(*d*) In either case that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage;

and upon the further affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reasons) that the defendant is about to abscond or has absconded or has attempted to remove his personal property out of the said Territories or to sell or dispose of the same or keeps concealed with intent as aforesaid as the case may be the judge being satisfied with the reasons aforesaid on application to him *ex parte* may direct the clerk to issue a writ of attachment in form D in the schedule hereto which writ shall be executed by the sheriff according to its tenor:

Application to judge

Provided that in any case where the debtor has absconded or is about to abscond from the Territories leaving no wife or family behind no property of such debtor shall be exempt from seizure. C. O. 21, R. 417.

Exemption from seizure

418. A copy of every such writ shall be served on the debtor against whose effects the same is issued at the time of making any seizure thereunder or as soon thereafter as such service can be effected if the said debtor can be found; but if such personal service cannot be effected a copy thereof shall be left with some

Copy writ of attachment to be served

grown up person resident at the place where such seizure is made or if no person is resident, posted in a conspicuous place on the premises. C. O. 21, R. 418.

**Sheriff's return and inventory**

419. Immediately after making a seizure under the said writ the sheriff shall make a return of the writ and with such return transmit annexed thereto an inventory of the property seized and the value thereof according to the best of his judgment and an affidavit of the manner in which service of such writ has been effected. C. O. 21, R. 419.

**Return of goods seized on giving security or deposit of value claimed**

420. Upon the seizure of any property under the writ hereinbefore described the person in whose possession it was at the time of seizure may have the same returnd to him upon giving the sheriff sufficient security for or paying into court an amount equal to its appraised value as shown in the inventory prescribed by the preceding rule hereof. C. O. 21. R. 420.

421. Unless the property seized is redelivered or relinquished by the sheriff under any of the provisions hereof he shall hold the same until the plaintiff obtains judgment in the cause and an execution upon such judgment is delivered to the sheriff:

Provided that in case the plaintiff shall be guilty of any unnecessary delay in the prosecution of his suit to judgment the court or a judge may order the redelivery of the property so seized to the person from whose possession it was taken unless some other writ of attachment or execution against the defendant shall be in the sheriff's hands for execution. C. O. 21, R. 421.

**Subsequent proceedings**

422. Notwithstanding the issue of a writ of attachment the cause shall be proceeded with in the ordinary way but the plaintiff shall not have judgment against the defendant except by order of the judge and in case the plaintiff fails to recover judgment for the full amount of the debt sworn to he shall not be entitled to any costs but may be ordered to pay the costs of the defendant. C. O. 21, R. 422.

**Setting aside writ**

423. A writ of attachment may be set aside by a judge on satisfactory proof by affidavit that the creditor who sued out such writ had not reasonable cause for taking such proceeding. C. O. 21, R. 423.

**Disposal of cattle or perishable goods pending suit**

424. In case any horses, cattle, sheep or any perishable goods or chattels or such as from their nature cannot be safely kept or conveniently taken care of are taken under any writ of

attachment the officer who seized the same shall have them appraised and valued on oath by two competent persons and in case the plaintiff desires it and deposits with the sheriff a bond to the defendant executed by one or more persons whose sufficiency shall be approved of by such officer in double the amount of the appraised value of such articles conditioned for the payment of such appraised value to the defendant together with all costs and damages incurred by the seizure and sale thereof in case judgment is not obtained by the plaintiff against the defendant then the sheriff may sell all or any of such enumerated articles at public auction to the highest bidder giving not less than six days' notice of such sale unless any of the articles are of such a nature as not to allow of that delay in which case the officer shall sell such articles last mentioned forthwith and shall hold the proceeds of such sale for the same purpose as he would have held any property seized under the attachment. C. O. 21, R. 424.

Plaintiff omitting to give security

425. If the plaintiff after notice to himself or his advocate of the seizure of any articles enumerated in rule 424 hereof neglects or refuses to deposit the bond or only offers a bond with sureties insufficient in the judgment of the sheriff then after the lapse of four days next after the notice the sheriff shall be relieved from all liability to the plaintiff in respect to the articles so seized and the sheriff shall forthwith restore the same to the person from whose possession he took such articles. [R.S.O. 1897, c. 79, s. 6.] C. O. 21, R. 425.

## ORDER XXXVI.

### REPLEVIN.

Recovery of goods unlawfully detained

426. In any action brought for the recovery of any personal property and claiming whether alone or with any other claim that such property was unlawfully taken or is unlawfully detained the plaintiff may at any time after the issue of the writ of summons obtain a writ of replevin for the delivery of the property to him on his complying with the following rules; such writ shall be in form E in the schedule hereto with such variations as circumstances may require; but nothing herein contained shall authorise the replevying any property seized by the sheriff or other officer charged with the execution of any process issued out of the court. C. O. 21, R. 426.

Property in custody of court

Issue of writ of replevin

427. Writs of replevin shall be issued by the clerk of the court upon the plaintiff or his duly authorised agent filing an affidavit naming the judicial district in which the property is and

Affidavit therefor

*1.* Embodying a description of the property sought to be replevied and the value thereof to the best of the deponent's belief; and that the person claiming is the owner or is entitled to the possession of the said property;

*2.* Further stating if replevin is sought in the case of property distrained for rent or *damage feasant* that the property was taken under colour of distress for rent or *damage feasant* as the case may be;

*3.* Or in the case of property wrongfully taken out of the possession of the claimant or fraudulently got out of his possession stating in addition to the particulars required by clause 1 of this rule the time and the wrongful and fraudulent manner in which the same was taken or gotten out of his possession and such facts and circumstances as show that the claimant is entitled to the possession of the property. C. O. 21, R. 427.

Replevin bond

Assignment of bond

Form

Defendant's rights

428. Before the sheriff replevies he shall take a bond in double the value of the property to be replevied as stated in the writ. The bond shall be assignable to the defendant by the sheriff indorsing his name thereon and such indorsement shall enable the defendant to bring an action thereon in his own name against the parties who have executed it. The bond may be in form F in the schedule hereto with such variations as circumstances may require and the parties to such bond shall be liable to the defendant and the defendant be entitled to recover from them in such action as well the value of the property replevied as the amount of any judgment in his favour in the original action as also such damages as the defendant may have sustained by reason of the detention of the property replevied by means of the said writ. C. O. 21, R. 428.

Service of copy of writ

429. A copy of such writ shall be served upon the defendant personally or if he cannot be found left at his usual or last place of abode with his wife or some other grown up person being a member of his family or household or if no such person resident there posted in a conspicuous place on the premises or if the defendant has no known residence posted up in the office of the clerk who issued the writ; but such service or posting shall not be made until the sheriff has replevied the property described in the writ or such part thereof as can be found; and in case the said sheriff or other officer has good reason to sus-

**Property secured or concealed from sheriff**

pect that the property to be replevied or any part thereof is secured, contained or concealed in any dwelling house, building or enclosure of the defendant or of any other person keeping or holding the same and the said sheriff or officer demands from the owner, occupier or other person in charge of the premises aforesaid deliverance of the said property and the same shall not be delivered upon such demand he may and if necessary he shall (but only between sunrise and sunset) break open such premises and enter and search the same for the purpose of replevying the property demanded and if found therein replevy the same.

**Defendant's right to retain on giving security**

*(2) The defendant or his agent (except in case of distress for rent or damage feasant) shall have the right to retain possession of the property described in the writ or any portion thereof if he shall give approved security to the sheriff in the form F (1) in the schedule hereto with such variations as circumstances may require; such security shall be assigned on request to the plaintiff by the sheriff indorsing his name thereon; and such indorsement shall be sufficient to enable such plaintiff to bring action thereon in his own name against the several parties who have executed such security.* C. O. 21, R. 429 and 1901 c. 10, s. 7.

**Sheriff's return to writ**

430. The sheriff shall make a return to the writ to the clerk of the court whence it issued and shall annex to the return:

*1.* The names, places of residence and occupation of the sureties in and the date of the bond taken from the plaintiff and the names of the witnesses thereto;

*2.* The number, quality and quantity of the articles of property replevied and in case he has replevied only a portion of the property mentioned in the writ and cannot replevy the residue he shall state in his return the articles which he cannot replevy and the reason why not;

*3. If the property is retained by the defendant under sub-rule (2) of rule 429, the names, places of residence and occupation of the parties and the date of the bond taken from the defendant and the names of the witnesses thereto.* C. O. 21, R. 430, added to by 1901 c. 10, s. 8.

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## ORDER XXXVII.

### INTERPLEADER.

**Interpleader**

431. **Relief** by way of interpleader may be granted:

**Cases in which relief granted**

*1.* Where the person seeking relief (hereinafter called the applicant) is under any liability for any debt, money, goods or chattels for or in respect of which he is or expects to be sued by two or more parties (hereinafter called the claimants) making adverse claims thereto;

2. Where the applicant is a sheriff or other officer charged with the execution of process by or under the authority of the court and claim is made to any property taken or intended to be taken in execution or attachment under any process or to the proceeds or value of any such property by:

(a) Any person other than the person against whom the process issued;

(b) Any landlord for rent;

(c) Any second or subsequent execution creditor claiming priority over any previous judgment, execution, process or proceeding;

(d) The execution or attachment debtor claiming the benefit of any exemptions from seizure allowed by law. [E. 850.] C. O. 21, R. 431.

Sheriff's Interpleader Claim to be in writing Notice to and by execution creditor

432. *Where a claim is made to or in respect of any goods or chattels taken in execution under the process of the court it shall be in writing and upon the receipt of the claim the sheriff or his officer shall forthwith give notice in writing thereof to the execution creditor and the execution creditor shall within four days after receiving the notice give notice in writing to the sheriff or his officer that he admits or disputes the claim. If the execution creditor admits the title of the claimant and gives such notice he shall only be liable to such sheriff or officer for any fees and expenses incurred prior to the receipt of the notice admitting the claim.* 1903, Sess. 1, c. 3, s. 3.

If claim not admitted or abandoned, issue of summons

433. Where the execution creditor does not in due time as directed by the last preceding rule admit or dispute the title of the claimant to the goods or chattels and the claimant does not withdraw his claim thereto by notice in writing to the sheriff or his officer the sheriff may apply for an interpleader summons to be issued and should the claimant withdraw his claim by notice in writing to the sheriff or his officer or the execution creditor in like manner serve an admission of the title of the claimant prior to the return day of such summons and at the same time give notice of such admission to the claimant the judge may in and for the purposes of the interpleader proceedings make all such orders as to costs, fees, charges and expenses as may be just and reasonable. C. O. 21, R. 433.

Admission or abandonment after summons

Costs

Matters to be proved by applicant

434. The applicant must satisfy the court or judge by affidavit or otherwise:

*1.* That the applicant claims no interest in the subject matter or dispute other than for charges or costs; and

*2.* That the applicant does not collude with any of the claimants; and

*3.* That the applicant is willing to pay or transfer the subject matter into court or to dispose of it as the court or judge may direct. [E. 851.] C. O. 21, R. 434.

Adverse titles of claimants

435. The applicant shall not be disentitled to relief by reason only that the titles of the claimants have not a common origin but are adverse to and independent of one another. [E. 852.] C. O. 21, R. 435.

Application by defendant

436. When the applicant is a defendant application for relief may be made at any time after service of the writ of summons. [E. 853.] C. O. 21, R. 436.

Summons by applicant

437. The applicant may take out a summons calling on the claimants to appear and state the nature and particulars of their claims and either to maintain or relinquish them. [E. 854.] C. O. 21, R. 437.

Stay of action

438. If the application is made by the defendant in an action the court or judge may stay all further proceedings in the action. [E. 855.] C. O. 21, R. 438.

Order on summons

439. If the claimants appear in pursuance of the summons the court or judge may order either that any claimant be made a defendant in any action already commenced in respect to the subject matter in dispute in lieu of or in addition to the applicant or that an issue between the claimants be stated and tried and in the latter case may direct which of the claimants is to be plaintiff and which defendant as also the time and place for the trial of such issue. [E. 856.] C. O. 21, R. 439.

Issue

Summary disposal

440. The judge may if it seems desirable so to do dispose of the merits of their claims and decide the same in a summary manner and on such terms as may be just. [E. 857.] C. O. 21, R. 440.

Question of law

441. When the question is a question of law and the facts are not in dispute the judge may either decide the question without directing the trial of an issue or order that a special case be stated for the opinion of the court. If a special case is stated the provisions herein relating to special cases shall as far as applicable apply thereto. [E. 858.] C. O. 21, R. 441.

Special case

Claimant not appearing or otherwise in default

442. If a claimant having been duly served with a summons calling upon him to appear and maintain or relinquish his claim does not appear in pursuance of the summons or having appeared neglects or refuses to comply with any order made after his appearance the court or judge may make an order declaring him and all persons claiming under him forever barred against the applicant and persons claiming under him but the order shall not affect the rights of the claimants as between themselves. [E. 859.] C. O. 21, R. 442.

Appeal lies

Decision otherwise final

443. Subject to the provisions of this order an appeal shall lie to the court *en banc* from the decision of the court or a judge in any interpleader proceeding but subject to such appeal the decision of the court or judge shall be final and conclusive against the claimants and all persons claiming under them. C. O. 21, R. 443.

Order for sale of goods seized

444. When goods and chattels have been seized in execution or under attachment by a sheriff and any claimant alleges that he is entitled under a bill of sale or otherwise to the same by way of security for debt the judge may order the sale of the whole or a part thereof and direct the application of the proceeds of the sale in such manner and upon such terms as may be just. [E. 861.] C. O. 21, R. 444.

Discovery and inspection

Powers of judge

445. The rules of court in respect to discovery and inspection shall with the necessary modifications apply in interpleader proceedings and the judge before whom the proceedings are had may finally dispose of the whole matter of the interpleader proceedings including all costs not otherwise provided for. [E. 862.] C. O. 21, R. 445.

Application where several executions against same property

446. In case the sheriff has more than one writ at the suit or instance of different parties against the same property it shall not be necessary for the sheriff to make separate applications on such writs or in each case; but he may make one application and make all the parties who are execution creditors parties to the said application; and the court or judge before whom the application is made may make such order therein as if a separate application had been made upon and in respect of each writ. C. O. 21, R. 446.

Delivery of property to claimant pending adjudication

447. Pending the adjudication of any such claim the sheriff may upon sufficient security being given to him by bond or otherwise for the forthcoming and delivery to him of the property so taken or the value thereof when demanded permit the claimant to retain the possession of the same until there shall

be final adjudication in respect of the same; but in every such case it shall be competent for the said sheriff or other officer at any time he shall see fit to resume the actual and absolute possession and custody of the said property notwithstanding such bond or security. Horses, cattle, sheep or any perishable goods the subject of interpleader may at the request of either party and upon his furnishing sufficient security or by order of the judge be sold by the seizing officer at public auction to the highest bidder giving not less than ten days' notice of such sale unless any of the articles are of such a nature as not to admit of delay in which case they may be sold forthwith. C. O. 21, R. 447.

**Sale of cattle or perishable goods**

448. The court or a judge may in and for the purposes of any interpleader proceedings make all such orders as to costs and all other matters as may be just and reasonable. [E. 864.] C. O. 21, R 448.

**Costs and other matters**

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## ORDER XXXVIII.

### SALE OF LAND, PARTITION, ETC.

449. If in any cause or matter relating to any real estate it shall appear necessary or expedient that the real estate or any part thereof should be sold the court or a judge may order the same to be sold and any party bound by the order and in possession of the estate or in receipt of the rents and profits thereof shall be compelled to deliver up such possession or receipt to the purchaser or such other person as may be thereby directed. [E. 680.] C. O. 21, R. 449.

**Court may order sale of real estate**

450. In all cases where a sale, mortgage, partition or exchange is ordered the court or a judge shall have power in addition to the powers already existing, with a view to avoiding expense or delay or for other good reason, to authorise the same to be carried out:

**Mode of carrying out sale, mortgage, etc. when ordered by court**

*1.* By laying proposals before the judge in chambers for his sanction; or

*2.* By proceedings altogether out of court, any moneys produced thereby being paid into court or to trustees or otherwise dealt with as the judge in chambers may order:

Provided always that the judge shall not authorise the said proceedings altogether out of court unless and until he is satisfied by such evidence as he shall deem sufficient that all persons interested in the estate to be sold, mortgaged, partitioned or exchanged are before the court or are bound by the order for sale, mortgage, partition or exchange and every order authorising the said proceedings altogether out of court shall be prefaced by a declaration that the judge is so satisfied as aforesaid and a statement of the evidence upon which such declaration is made. [E. 680*a*.] C. O. 21, R. 450.

Sale by court

Approval of judge

Parties

451. Where a judgment or order is given or made whether in court or chambers directing any property to be sold, unless otherwise ordered the same shall be sold with the approbation of the judge to the best purchaser that can be got, the same to be allowed by the judge, and all proper parties shall join in the sale and conveyance as the judge shall direct. [E. 682.] C. O. 21, R. 451.

Originating summons for foreclosure, etc.

452. A mortgagee or mortgagor whether legal or equitable or any person entitled to or having property subject to a legal or equitable charge or any person having the right to foreclose or redeem any mortgage whether legal or equitable may obtain an originating summons returnable in chambers for such relief of the nature or kind following as may by the summons be specified and as the circumstances of the case may require that is to say: sale, foreclosure, delivery of possession by the mortgagor, redemption, reconveyance, delivery of possession by the mortgagee. [E. 767*a*.] C. O. 21, R. 452.

453. The judge may upon such summons pronounce such judgment and make such orders as the case may require including orders vesting such property in such person or persons as may be found or declared entitled thereto for such estate or interest as may be requisite. [E. 770.] C. O. 21, R. 453.

Persons to be served

454. The persons to be served with the said summons shall be such persons as under the existing practice would be proper defendants to an action for the like relief as that specified by the summons. [E. 767*b*.] C. O. 21, R. 454.

Service on other persons

455. The judge may direct such other persons to be served with the summons as he may think fit. [E. 768.] C. O. 21, R. 455.

Evidence Trial of questions

456. The application shall be supported by such evidence as the judge may require and directions may be given as he may think just for the trial of any questions arising thereout. [E. 769.] C. O. 21, R. 456.

**Mortgagee may be required to produce books**

456*a*. *In all proceedings before the court or judge to recover the amount due under a mortgage whether such proceedings be by way of action or by originating summons for the foreclosure or sale of the mortgaged property on in any other way if the moneys secured by the mortgage are payable both as to principal and interest by monthly instalments for an indefinite period dependent for its duration upon computations resulting from the investment of either the whole or a portion of such monthly instalments by the mortgagee the mortgagee shall if ordered by the court or judge so to do before being entitled to a judgment or to a final order for sale or foreclosure of the mortgaged premises produce to the court or judge all the original books and accounts, papers and documents in connection with the loan and show therefrom how the amount claimed to be due on such mortgage is made up.* 1901, c. 10, s. 9.

**Special directions**

457. The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he may think just. [E. 771.] C. O. 21, R. 457.

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## ORDER XXXIX.

### MOTIONS AND APPLICATIONS.

***Ex parte* applications**

**Court motions**

**Chamber applications**

**Order *ex parte* if delay injurious**

458. Applications for summonses, rules and orders to show cause and applications authorised to be so made by these rules may be made *ex parte*. Other motions in court shall be by notice of motion and other applications in chambers by summons except where otherwise specially provided. But the court or judge if satisfied that delay caused by proceeding in the ordinary way would or might entail irreparable or serious mischief may make any order *ex parte* upon such terms as to costs or otherwise and subject to such undertaking if any as the court or judge may think just; and any party affected by such order may move to set it aside or to vary it. [E. 698.] C. O. 21, R. 458.

**Grounds to be stated in certain cases**

**Service of affidavits**

459. Every notice of motion or summons to set aside, remit or enforce an award or for attachment or committal or to strike off the rolls shall state in general terms the grounds of the application; and where any motion is made by notice a copy of any affidavit intended to be used shall be served with the notice of motion. [E. 699.] C. O. 21, R. 459.

**Motions Length of notice**

460. Unless the court or a judge gives special leave to the contrary there must be at least two clear days between the service of a notice of motion and the day named in the notice for hearing the motion. [E. 700.] C. O. 21, R. 460.

**Dismissal or adjournment where persons not served**

461. If on the hearing of a motion or other application the court or judge shall be of opinion that any person to whom notice has not been given ought to have or to have had such notice the court or judge may either dismiss the motion or application or adjourn the hearing thereof in order that such notice may be given upon such terms if any as the court or judge may think fit to impose. [E. 701.] C. O. 21, R. 461.

**Adjournment of hearing**

462. The hearing of any motion or application may from time to time be adjourned upon such terms if any as the court or judge may think fit. [E. 702.] C. O. 21, R. 462.

**Deciding preliminary question**

463. When on any application or motion in court or chambers it appears to the judge desirable that any question of law or fact should be first determined before proceeding with the complete hearing of such application or motion the judge may direct such question to be first argued or determined upon such terms as to costs, adjournment and otherwise as he deems proper and upon the determination of such question the judge may either finally dispose of the motion or application or proceed with a further hearing thereof as may be proper. C. O. 21, R. 463.

**Defendant not appearing to writ Service on notice on**

464. The plaintiff shall without any special leave be at liberty to serve any notice of motion or other notice or any petition or summons upon any defendant who having been duly served with a writ of summons to appear has not appeared within the time limited for that purpose. [E. 703.] C. O. 21, R. 464.

**Service of notice of motion before appearance**

465. The plaintiff may by leave of the court or judge to be obtained *ex parte* serve any notice of motion upon any defendant along with the writ of summons or at any time after service of the writ of summons and before the time limited for the appearance of such defendant. [E. 704.] C. O. 21, R. 465.

**Enforcing return of writ or order by sheriff**

466. No order shall issue for the return of any writ or order or to bring in the body of any person ordered to be attached, arrested or committed; but a notice from the person issuing the writ or obtaining the order for attachment, arrest, replevin or committal (if not represented by an advocate) or by his advo-

cate calling upon the sheriff to return such writ or order or to bring in the body within ten days, if not complied with shall entitle such person to apply for an order for the committal of such sheriff. [E. 706.] C. O. 21, R. 466.

**Date of orders**

467. Every order shall be dated the day of the month and year on which the same was made, unless the court or a judge shall otherwise direct and shall take effect accordingly. [E. 708.] C. O. 21, R. 467.

**Certain orders need not be drawn up**

468. Where an order has been made not embodying any special terms nor including any special directions but simply enlarging time for taking any proceeding or doing any act or giving leave:

(*a*) For the issue of any writ other than a writ of attachment;

(*b*) For the amendment of any writ or pleadings;

(*c*) For the filing of any document; or

(*d*) For any act to be done by any officer of the court other than an advocate;

it shall not be necessary to draw up such order unless the court or a judge shall otherwise direct; but the production of a note or memorandum of such order signed by a judge shall be sufficient authority for such enlargement of time, issue or amendment, filing or other act. A direction that the costs of such order shall be costs in any cause or matter shall not be deemed a special direction within the meaning of this section. The advocate of the person on whose application such order is made shall forthwith give notice in writing thereof to such person if any as would if this rule had not been made have been required to be served with such order. [E. 709.] C. O. 21, R. 468.

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## ORDER XL.

### APPLICATIONS IN CHAMBERS.

### I.—*By Originating Summons.*

**Proceedings by originating summons**

469. Proceedings commenced by originating summons in the supreme court of judicature in England may be so commenced under this Ordinance unless otherwise provided and proceedings by a landlord to recover possession of demised premises from an overholding tenant may be so commenced.

(2) *The application for an originating summons shall be supported by an affidavit of the plaintiff or some other person conversant with the facts verifying the facts on which the plaintiff's claim is based.* C. O. 21, R. 469, added to by 1903, Sess. 1, c. 8, s. 4.

Sealing and form

470. An originating summons shall be sealed by the clerk and shall follow form G in the schedule hereto with such variations as may be approved by the judge. C. O. 21; R. 470.

Time for appearance

471. Unless otherwise ordered there shall be at least ten clear days between the service and return of an originating summons. C. O. 21, R. 471.

472. *All the rules relating to service of a writ of summons on a defendant whether personal or substitutional and whether within or without the jurisdiction shall apply to the service of an originating summons and any order heretofore made permitting service of any originating summons upon a defendant without the jurisdiction or permitting substitutional service upon a defendant shall be deemed to be good and valid if an order permitting service of a writ of summons under the same circumstances and in the same manner would have been good and valid.* 1902, c. 5, s. 3.

Judgment on originating summons

473. Upon proof by affidavit of the due service of the originating summons or on the appearance in person or by advocate of the parties served the judge may pronounce such judgment as the nature of the case requires. [E. 470.] C. O. 21, R. 473.

Special directions as to judgment

474. The judge may give any special directions touching the carriage or execution of the judgment or the service thereof upon persons not parties as he may think just. [E. 771.] C. O. 21, R. 474.

II.—*Generally.*

Service of chamber summons

475. Every summons except an originating summons shall be served two clear days before the return thereof unless in any case it shall be otherwise ordered. C. O. 21, R. 475.

Proceeding *ex parte* where party fails to attend

476. Where any of the parties to a summons fail to attend whether upon the return of the summons or at any time appointed for the consideration or further consideration of the matter the judge after waiting thirty minutes may allow the case to proceed *ex parte* if considering the nature of the case

he thinks it expedient so to do; no affidavit of nonattendance shall be required or allowed but the judge may require such evidence of service as he may think just. [E. 738.] C. O. 21, R. 476.

**Reconsideration of *ex parte* proceedings**

477. When the case has been allowed to proceed *ex parte* such proceeding shall not in any manner be reconsidered unless the judge shall be satisfied that the party failing to attend was not guilty of wilful delay or negligence; and in such case the costs occasioned by his nonattendance shall be in the discretion of the judge who may fix the same at the time and direct them to be paid by the party or his advocate before he shall be permitted to have such proceeding reconsidered or make such order as to such costs as he may think just. [E. 739.] C. O. 21, R. 477.

**Costs**

**Proceeding failing by nonattendance of party**

478. When a proceeding in chambers fails by reason of the nonattendance of any party and the judge does not think it expedient to allow *ex parte* proceeding the judge may order such an amount for costs if any as he shall think reasonable to be paid to the party attending by the absent party or by his advocate personally. [E. 740.] C. O. 21, R. 478.

**Costs**

**Summons not disposed of on return, further attendance**

479. When matters in respect of which summonses have been issued are not disposed of upon the return of the summons the parties shall attend from time to time without further summons at such time or times as may be appointed for the consideration or further consideration of the matter. [E. 741.] C. O. 21, R. 479.

**Jurisdiction of judge in chambers**

480. A judge in chambers shall have jurisdiction to hear and determine any application or motion, except where it is by this Ordinance or these rules otherwise provided, that may be heard and determined by a single judge or which by the practice and procedure in the supreme court of judicature in England may be heard and determined by any judge in chambers, master or chief clerk. C. O. 21, R. 480.

### III.—*Administration and Trusts.*

**Originating summons relating to express trusts or administration of estate of deceased person**

481. The executors or administrators of a deceased person or the sureties for administrators and the trustees under any deed or instrument or any of them and any person claiming to be interested in the relief sought as creditor, devisee, legatee, next of kin or heir at law of a deceased person or as *cestui que trust* under the trust of any deed or instrument or as claiming by

assignment or otherwise under such creditor or other person as aforesaid may obtain an originating summons returnable before the judge in chambers at such time as he may appoint, for:

*1.* The administration of the estate of the deceased;

*2.* The administration of the trust;

*3.* The determination of any question affecting the rights or interests of the person claiming to be creditor, devisee, legatee, next of kin or heir at law or *cestui que trust*;

*4.* The ascertainment of any class of creditors, legatees, devisees, next of kin or others;

*5.* The furnishing and vouching of any particular accounts by executors, administrators or trustees;

*6.* The payment into court of any money in the hands of executors, administrators or trustees;

*7.* Directing the executors, administrators or trustees to do or abstain from doing any particular act in their character as executors, administrators or trustees;

*8.* The approval of any sale, purchase, compromise or other transaction;

*9.* The determination of any question arising in the administration of the estate or trust;

**Staying actions pending performance of trusts**

*10.* An order that no action be brought or that all actions and proceedings pending against trustees, executors or administrators be stayed for such period as to the said judge may seem necessary or expedient in order that sufficient time be allowed to such trustee, executor or administrator for the performance of the trusts imposed upon him; provided however that any creditor or other person interested in such estate may apply before the expiration of such time for an order discontinuing such stay:

**Interference with discretion of trustee**

Provided that the proceedings under this rule shall not interfere with or control any power or discretion vested in any executor, administrator or trustee except so far as such interference or control may necessarily be involved in the particular relief sought. [E. 765, 766 and 774.] C. O. 21, R. 481.

**Service of summons**

**Newspaper notice**

482. The persons to be served with the summons under the last preceding rule shall be such persons as would be the proper defendants to an action for the like relief as that specified by the summons and the summons shall be served upon such other persons as the judge may direct and the intended hearing may also be advertised in one or more newspapers as the judge may order. [E. 767*b*.] C. O. 21, R. 482.

**Evidence**

483. The application shall be supported by such evidence as the judge may require. [E. 769.] C. O. 21, R. 483.

**Judgment on summons**

484. Upon the return of the summons the judge may pronounce such judgment and make such orders as the nature of the case requires. [E. 770.] C. O. 21, R. 484.

**Special directions**

485. The judge may give any special directions touching the carriage or execution of the judgment or order or the service thereof upon persons not parties as he may think proper. [E. 771.] C. O. 21, R. 485.

**Administration not to be ordered if questions otherwise determinable**

486. It shall not be obligatory on the court or judge to pronounce or make judgment or order whether on summons or otherwise for the administration of any trust or of the estate of any deceased person if the questions between the parties can be properly determined without such judgment or order. [E. 772.] C. O. 21, R. 486.

**Powers of court if administration or trust accounts not rendered**

487. Upon an application for administration or execution of trusts by a creditor or beneficiary under a will, intestacy or deed of trust where no accounts or insufficient accounts have been rendered the court or a judge may in addition to the powers already existing:

(*a*) Order that the application shall stand over for a certain time and that the executors, administrators or trustees in the meantime shall render to the applicant a proper statement of their accounts with an intimation that if this is not done they may be made to pay the costs of the proceedings;

(*b*) When necessary to prevent proceedings by other creditors or by persons beneficially interested make the usual judgment or order for administration with a proviso that no proceedings are to be taken under such judgment or order without leave of the judge in person. [E. 772*a*.] C. O. 21, R. 487.

**Appointment of new trustee and vesting order**

488. Any of the following applications may be made by originating summons:

*1.* An application for the appointment of a new trustee with or without a vesting or other consequential order;

*2.* An application for a vesting order or other order consequential on the appointment of a new trustee whether the appointment is made by the court or a judge or out of court. C. O. 21, R. 488.

Sale ordered of trust property

Conduct of sale

489. Whenever in an action for the administration of the estate of a deceased person or execution of the trusts of a written instrument a sale is ordered of any property vested in any executor, administrator or trustee the conduct of such sale shall be given to such executor, administrator or trustee unless the judge shall otherwise direct. [E. 666.] C. O. 21, R. 489.

Judge may obtain assistance of experts

490. The judge may in such way as he may think fit obtain the assistance of accountants, merchants, engineers and other scientific persons the better to enable any matter at once to be determined and he may act upon the certificate of any such person. [E. 781.] C. O. 21, R. 490.

Claimants not coming in to prove excluded

491. Where a judgment or order is given or made directing an account of debts, claims or liabilities or an inquiry for heirs, next of kin or other unascertained persons unless otherwise ordered all persons who do not come in and prove their claims within the time which may be fixed for that purpose by advertisement shall be excluded from the benefit of the judgment or order. [E. 806.] C. O. 21, R. 491.

Advertisement of time for proof of claims

492. The court or judge may direct that notice of the time so fixed shall be given by publishing an advertisement thereof in some newspaper or newspapers in the Territories as the court or judge may direct and unless otherwise directed no other notice thereof or service shall be necessary. C. O. 21, R. 492.

Signature of notice

493. Such notice if the order is made by the court shall be signed by the clerk as the officer of the court; if made by a judge it shall be signed by him. C. O. 21, R. 493.

Persons not proving claims within time excluded

494. Upon such notice being duly published and such other notice given or published or served as the court or judge may direct, all persons who do not come in and prove their claims within the time so fixed shall be excluded from the benefits of the judgment or order. [E. 806.] C. O. 21, R. 494.

Application by trustee, etc., or opinion and direction of court

495. Any trustee, executor or administrator may without the institution of a suit upon a written statement verified on oath apply to a judge in chambers for the opinion, advice or direction of such judge on any question respecting the management or administration of the trust property or the assets of any testator or intestate, notice of such application to be served upon or the hearing thereof to be attended by all persons interested in such application or such of them as the said judge shall think expedient and the said trustee, executor or administrator

acting upon the opinion, advice or direction given by the said judge shall be deemed so far as regards his own responsibility to have discharged his own duty as such trustee, executor or administrator in the subject matter of the said application:

**Exoneration of trustee, etc.** Provided nevertheless that nothing in this rule shall extend to indemnify any trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid if such trustee, executor or administrator shall have been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. C. O. 21, R. 495. **Fraud or concealment**

### IV.—*Guardian ad litem.*

**Infant or person of unsound mind Guardian *ad litem*** 496. At any time during proceedings at chambers under any judgment or order the judge may if he shall think fit appoint a guardian *ad litem* for an infant or person of unsound mind not already so found who has been served with notice of such judgment or order. C. O. 21, R. 496.

### V.—*Varying Orders.*

**Consent to discharge of order** 497. The judge may set aside, vary or discharge any order made by him on consent of all parties interested. C. O. 21, R. 497.

## ORDER XLI.

### COURT EN BANC.

**Sittings of court *en banc*** 498. The supreme court shall sit *en banc* at such times and places as the Lieutenant Governor in Council appoints. The sittings may be adjourned from time to time as may be necessary. C. O. 21, R. 498.

**Adjournment if no quorum** 499. If on any of the days appointed for the sittings of the court *en banc* or adjournments thereof a sufficient number of judges to constitute a quorum have not arrived the senior judge present shall make such adjournment as he may think proper. C. O. 21, R. 499.

**Judgment on consent or as to costs, no appeal without leave** 500. No judgment given or order made by the court or a judge by the consent of the parties or as to costs only which by law are left to the discretion of the court or judge shall be subject to any appeal except by leave of the court or judge giving the judgment or making the order. C. O. 21, R. 500.

**Application to stay proceedings pending appeal**

510. When notice of motion for a new trial or notice of appeal has been served the further proceedings on the verdict, finding, order or judgment may be stayed in whole or in part until the decision on such motion or appeal by the court or by the judge who presided at the trial on such terms as the court or judge may think fit. * * * C. O. 21, R. 510, repealed in part by 1903, Sess. 1, c. 8, s. 5.

**Evidence on appeal as to question of fact**

511. When any question of fact is involved in an appeal or application for a new trial the evidence taken in the court below or by the judge appealed from, bearing on such question shall subject to any special order be brought before the court as follows:

*1.* As to any evidence taken by affidavit, by the production of copies of such affidavits;

*2.* As to any evidence given orally, by the production of copies of the judge's notes or such other material as the court may deem expedient. [E. 875.] C. O. 21, R. 511.

**Interlocutory order not to prejudice appeal**

512. No interlocutory order or rule shall operate so as to bar or prejudice the court from giving such decision on the appeal as may be just. [E. 878.] C. O. 21, R. 512.

**Appeal not to be stay of proceedings**

513. No notice of appeal shall operate as a stay of execution or of proceedings under the decision appealed from or objected to except so far as the judge appealed from or the court may order and no intermediate act or proceeding shall be invalidated except so far as the court may direct. Such deposit or other security shall be made or given as may be directed by the court or judge otherwise the motion of appeal shall not be heard but be dismissed. [E. 880.] C. O. 21, R. 513.

**Security**

**Applications to judge where judge who tried the action cannot hear them**

514. Where any application ought to be made to or any jurisdiction exercised or any act done by the judge by whom a cause or matter has been tried or heard if such judge die or cease to be a judge of the court or if for any other reason it shall be impossible or inconvenient that such judge should act in the matter the presiding judge may either by a special order in any cause or matter or by a general order applicable to any class of orders or matters nominate some other judge to whom such applications may be made or by whom such jurisdiction may be exercised. [E. 885.] C. O. 21, R. 514.

**Appeals to be entered and motions made at first opportunity**

515. A judgment, order, decision, rule or verdict appealed from or sought to be set aside shall stand as if no notice of appeal or notice of motion to set the same aside had been made

or given if the cause or matter in which the same was made or given be not entered for argument on the first entry day after such notice or if the motion of which such notice has been given be not made when the cause or matter is called unless such default in the moving party be waived by the other parties interested or unless the court shall otherwise order. C. O. 21, R. 515.

**Single judge may deliver judgment of court or of other judge**

516. Any judge may deliver the judgment of the court when authorised to do so by the judges *en banc* who heard the matter on which the judgment is to be pronounced or may deliver the judgment of any other judge when authorised to do so by such other judge notwithstanding the absence of the judge or judges aforesaid. C. O. 21, R. 516.

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## ORDER XLII.

### COSTS.

**Costs generally in discretion of court**

517. Subject to the provisions of this Ordinance and the rules of court the costs of and incident to all proceedings in the supreme court including the administration of estates and trusts and compensation or allowance to any executor, administrator, guardian, committee, receiver or trustee shall be in the discretion of the court or judge:

**Proviso as to trustees**

Provided that nothing herein contained shall deprive an executor, administrator, trustee or mortgagee who has not unreasonably instituted or carried on or resisted any proceedings of any right to costs out of a particular estate or fund to which he would otherwise be entitled:

**Costs where cause tried by jury**

Provided also that where any action, cause, matter or issue is tried with a jury the costs shall follow the event unless the judge by whom such action, cause, matter or issue is tried or the court shall for good cause otherwise order. [E. 976.] C. O. 21, R. 517.

**Costs of issues**

518. When issues in fact and law are raised upon a claim or counterclaim the costs of the several issues respectively both in law and fact shall unless otherwise ordered follow the event. [E. 977.] C. O. 21, R. 518.

**Costs of advocate guardian *ad litem***

519. Where the court or judge appoints an advocate to be guardian *ad litem* of an infant or person of unsound mind the court or judge may direct that the costs to be incurred in the performance of the duties of such office shall be borne and paid

by the parties or some one or more of the parties to the cause or matter in which such appointment is made or out of any fund in court in which such infant or person of unsound mind may be interested and may give directions for the repayment or allowance of costs as the justice and circumstances of the case may require. [E. 988.] C. O. 21, R. 519.

## II.—*Security for Costs.*

**Summons for security for costs**

520. When the plaintiff in an action resides out of the Territories and in any other case where by the practice and procedure in England a defendant is entitled to security for costs and the defendant by affidavit of himself or his agent alleges that he has a good defence on the merits to the action the defendant shall be entitled to a summons to show cause why an order should not issue requiring the plaintiff within three months (or such other or further time as the court or judge may deem right) from the service of the order to give security for the defendant's costs and staying all further proceedings in the meantime and directing that in default of such security being given the action be dismissed with costs unless the court or judge on special application for that purpose shall otherwise order. C. O. 21, R. 520.

**Time and manner of giving security**

521. In any cause or matter in which security for costs is required the security shall be of such amount and be given at such times and in such manner and form as the court or judge may direct. [E. 981.] C. O. 21, R. 521.

**Obligee where bond given**

522. Where a bond is given as security for costs it shall unless the court or judge shall otherwise direct be given to the party or person requiring the security and not to an officer of the court. [E. 982.] C. O. 21, R. 522.

## III.—*Taxation and Tariffs of Costs.*

**Taxation of costs unless lump sum ordered**

523. In all cases and proceedings as also upon interlocutory applications where a party becomes entitled to costs from any other party the same shall be taxed by the clerk in accordance with the authorised tariffs unless the court or judge by order directs the payment of a sum in gross in lieu of taxed costs and by and to whom such sum in gross shall be paid. C. O. 21, R. 523.

**Taxations between party and party**

523*a*. *Where costs are to be paid or borne by another party no costs are to be allowed which do not appear to the clerk to have been necessary or proper for the attainment of justice or defending the rights of the party.* 1901, c. 10, s. 10.

**Costs of unnecessary proceedings not to be taxed**

523*b*. *Between party and party the clerk shall not allow the cost of proceedings:*

- (*a*) *Unnecessarily taken;*
- (*b*) *Not calculated to advance the interests of the party on whose behalf the same were taken;*
- (*c*) *Incurred through over caution, negligence or mistake;*

*unless he is of opinion that such proceedings were taken by the advocate because in his judgment reasonably exercised they were conducive to the interests of his client.*

**Exceptions in case of taxation between solicitor and his client when costs incurred at client's request after notice that proceedings unnecessary**

(*2*) *Between solicitor and client the clerk may allow the costs of proceedings taken as mentioned in the above clauses* (*a*) *and* (*c*) *of this rule where he is of the opinion that such proceedings were taken by the advocate because in his judgment reasonably exercised they were conducive to the interests of his client and may allow the costs of proceeds taken as mentioned in clause* (*b*) *where the same were taken by the desire of the client after being informed by his advocate that the same were unnecessary and not calculated to advance the interests of the client.* 1901, c. 10, s. 10.

**Sheriff and clerks' fees**

524. There shall be paid to each sheriff and clerk the fees prescribed by the judges of the supreme court; and for any necessary services performed for which fees are not so prescribed, such fees as may be authorised by the judge. C. O. 21, R. 524.

**Cases where advocate may be deprived of or ordered to pay costs**

525. If in any case it shall appear to the court or a judge that costs have been improperly or without any reasonable cause incurred or that by reason of any undue delay in proceeding under any judgment or order or of any misconduct or default of the advocate any costs properly incurred have nevertheless proved fruitless to the person incurring the same the court or judge may call on the advocate of the person by whom such costs have been so incurred to show cause why such costs should not be disallowed as between the advocate and his client and also (if the circumstances of the case shall require) why the advocate should not pay to his client any costs which the client may have been ordered to pay to any other person and thereupon may make such order as the justice of the case may require. C. O. 21, R. 525.

**Notice of taxation**

526. One day's notice of taxing costs together with a copy of the bill of costs and affidavit of increase if any shall be given by the advocate of the party whose costs are to be taxed to the other party or his advocate in all cases where a notice to tax is necessary. C. O. 21, R. 526.

Unnecessary if defendant not appeared

527. Notice of taxing costs shall not be necessary in any case where the defendant has not appeared in person or by his advocate or guardian. C. O. 21, R. 527.

Application for review of taxation

528. Any party who may be dissatisfied with the allowance or disallowance by the clerk in any bill of costs taxed by him of the whole or any part of the item or items may on two days' notice to the opposite party specifying the item or items objected to apply to a judge in chambers to review the taxation. C. O. 21, R. 528.

Evidence on review

529. Such application shall be heard and determined by the judge upon the evidence which shall have been brought in before the clerk and no further evidence shall be received unless the judge shall otherwise direct. C. O. 21, R. 529.

Tariffs to be posted

530. A copy of the tariff of clerk's and sheriff's fees shall be posted in some conspicuous place in the clerk's and sheriff's offices respectively. C. O. 21, R. 530.

Witnesses' jurors' and interpreters' fees

531. Witnesses, jurors and interpreters and parties shall be entitled to the fees and remuneration named in the *Tariff of witnesses', jurors', and interpreters' fees* appended to this Ordinance. C. O. 21, R. 531.

Fees payable in advance

532. All fees and allowances respectively payable under the said tariffs whether under writs of execution or otherwise shall be paid in advance by the parties at whose instance the service is to be rendered but in cases where the amounts are impossible of ascertainment for any reason then the amount approximated by the officer or fixed by the judge shall be deposited or paid to be accounted for when the correct amount is ascertained. C. O. 21, R. 532.

Deposit where unascertainable

Advocates' fees

533. In all causes and matters in which duly enrolled advocates holding certificates as such and resident in the Territories are employed they shall be entitled to charge and be allowed such fees as may be from time to time prescribed by the judges of the supreme court. C. O. 21, R. 533.

Fees in court *en banc*

534. The court *en banc* may by order regulate fees for services performed by the registrar and other officers of the court as also fees to counsel and advocates practising therein. C. O. 21, R. 534.

# ORDER XLIII.

## MISCELLANEOUS.

### I.—*Forms.*

Forms

535. The forms contained in the schedule to this Ordinance shall be used with such variations as circumstances may require and as to all other matters the forms used in the administration of civil justice in England with such variations as will make them respectively applicable to proceedings in the supreme court of the Territories whether *en banc* or otherwise may be used. C. O. 21, R. 535.

### II.—*Actions against Public Officers.*

Venue

Limitation

536. All actions and prosecutions to be commenced against any person for anything purporting to be done in pursuance of his duty as a public officer (unless otherwise ordered by the judge) shall be commenced and tried in the district wherein the act was committed and must be commenced within six months after the act was committed and not otherwise. C. O. 21, R. 536, repealed in part by 1903, Sess. 1, c. 3, s. 6.

### III.—*Ex parte Proceedings; Noncompliance; and Irregugarities.*

*Ex parte* proceedings Notice may be required

537. In case of *ex parte* proceedings the judge may refuse to proceed *ex parte* and may direct such notice to be given by summons or otherwise to such party or parties as he may deem fit. C. O. 21, R. 537.

Non-compliance, effect of

538. Noncompliance with any of the provisions of this Ordinance shall not render any proceedings void unless the court or a judge shall direct but such proceedings may be set aside either wholly or in part as irregular or amended or otherwise dealt with in such manner and upon such terms as the court or judge may think fit. [E. 1037.] C. O. 21, R. 538.

Waiver of irregularity

539. No application to set aside any proceeding for irregularity shall be allowed unless made within reasonable time nor if the party applying has taken any fresh step after knowledge of the irregularity. [E. 1038.] C. O. 21, R. 539.

**Grounds of irregularity to be stated**

540. When an application is made to set aside proceedings for irregularity the several objections intended to be insisted upon shall be stated in the summons or notice of motion. [E. 1039.] C. O. 21, R. 540.

**Costs of summons**

541. When a summons is taken out to set aside any process or proceeding for irregularity with costs and the summons is dismissed generally without any special direction as to costs it is to be understood as dismissed with costs. [E. 1040.] C. O. 21, R. 541.

### IV.—*Alias Writs.*

**Expiry of process *Alias or pluries***

542. The expiry of any writs or process without service or execution shall not abate the suit but the suit may be continued by the issue of *alias* or *pluries* writs or process as may be necessary. C. O. 21, R. 542.

### V.—*Sittings Adjourned.*

**Judge unable to attend sittings of court Clerk's duties**

543. Whenever from illness or other cause the judge who should hold a sitting of the court fails to attend at the time appointed therefor the clerk at three o'clock in the afternoon of the day so appointed shall adjourn such sitting by proclamation to some hour on the following day to be by him named and so on from day to day (but not exceeding three days) until the judge who is to hold such sitting as aforesaid is able to hold the same or until he receives other directions from such judge; but if after the expiration of the said period of three days the said judge has not arrived or be still unable to attend, the clerk shall unless he be otherwise directed adjourn the court to the next regular sitting of the same and report his action thereon to the Lieutenant Governor. C. O. 21, R. 543.

### VI.—*Time for Service.*

**Hours for service of pleadings, etc.**

544. Service of pleadings, notices, summonses, orders, rules and other proceedings except writs of summons, attachment and replevin shall be effected before six o'clock in the afternoon; service effected after six o'clock in the afternoon shall for the purpose of computing any period of time subsequent to such service be deemed to have been effected on the following day and if effected on Saturday, the following Monday. [E. 971.] C. O. 21, R. 544.

**Reckoning number of days**

545. In any case in which any number of days not expressed to be clear days is prescribed in this Ordinance the same shall be reckoned exclusively of the first and inclusively of the last day. [E. 972.] C. O. 21, R. 545.

**Where time limited under six days holidays excluded**

546. Where any limited time less than six days from or after any date or event is appointed or allowed for doing any act or taking any proceeding the days on which the offices are closed under the provisions of this Ordinance and the rules of court shall not be reckoned in the computation of such limited time. [E. 962.] C. O. 21, R. 546.

**Time expiring on holiday**

547. Where the time for doing any act or taking any proceeding expires on a Sunday or other day on which the offices are closed and by reason thereof such act or proceeding cannot be done or taken on that day such act or proceeding shall so far as regards the time of doing or taking the same be held to be duly done or taken if done or taken on the day on which the offices shall next be open. [E. 963.] C. O. 21, R. 547.

**Enlargement or abridgement of time**

548. The court or a judge shall have power to enlarge or abridge the time appointed by this Ordinance or the rules of court fixed by any order enlarging time for doing any act or taking any proceeding upon such terms if any as the justice of the case may require and any such enlargement may be ordered although the application for the same is not made until after the expiration of the time appointed or allowed. [E. 967.] C. O. 21, R. 548.

## VII.—*Vacation.*

**Period of vacation**

549. There shall be a vacation to extend from the first day of August to the thirtieth day of September inclusive of both days in each year. During vacation no contested business shall be transacted and neither party to a suit in which an appearance has been entered shall be compelled to deliver any pleading. If the time for delivering a defence in a cause in which the defendant has appeared has not expired previous to the first day of August it shall without any order to that effect stand extended until the expiration of five days after the last day of vacation:

**Proceeding stayed during**

**Proviso**

Provided that notice of motion to set down for trial may be given and heard during vacation. C. O. 21, R. 549.

**Exceptions**

550. Nothing in the preceding rule contained shall prevent the issue of process or the transaction of any business which may be done *ex parte* or the entering of judgment by default in any suit in which no appearance is entered or the taxation of costs or interfere with the hearing during vacation of any cause or matter if a judge so directs nor shall this rule affect the validity of any proceedings had or taken during vacation by order of the court or a judge authorising such proceedings to be had or taken notwithstanding the vacation. C. O. 21, R. 550.

**Order for sale or mortgage**

**Bond by guardian**

*4*. If the judge is satisfied as to the result of such inquiries, that the personal estate is not sufficient for the payment of the debts and that the same has been applied to that purpose as far as the circumstances of the case render proper the judge may order the real estate or a sufficient portion of it to be mortgaged or sold by the guardian and the moneys thus raised shall be employed for the payment of the debts of the estate and if insufficient shall be distributed in the same way as intestate's estates are distributed by law the guardian having first provided a bond with sureties similar in terms to that provided by paragraph *1* of rule 558 for duly accounting for the proceeds so raised. C. O. 21, R. 559.

**Sale or mortgage of real estate for maintenance of lunatic or family**

560. When the personal estate and the rents, profits and income of the real estate of the lunatic are insufficient for his maintenance or that of his family or for the proper education of his children or when for any other cause it shall appear desirable so to do on application made by the guardian or by any member of the family of the insane person the judge may after inquiry as hereinbefore provided in the case of debts order the mortgaging or sale of the whole or part of the real estate of the lunatic by the guardian the guardian having first provided a bond with sureties as required by the preceding rule. C. O. 21, R. 560.

**Clerk's fees Costs**

**Guardian's remuneration**

561. The judge may order such fees to the clerk of the court and costs of and relating to any petition, order, direction and conveyance including remuneration to the guardian as he may consider reasonable to be paid and raised from the lands, rents or personal estate of the lunatic in respect of whom the same may be respectively incurred, made or caused. C. O. 21, R. 561.

**Removal of guardian**

562. On sufficient grounds shown the judge may remove a guardian and appoint another in his stead. C. O. 21, R. 562.

**Intituling proceedings**

563. In the proceedings aforesaid the petitions and papers may be intituled as follows:

In the Supreme Court,

Judicial District of

In the matter of

C. O. 21, R. 563.

# ORDER XLV.

## INFANTS.

### I.—*Guardians.*

**Guardianship of infants and their estates**

564. The court or a judge thereof may appoint guardians of infants and of their estates (but unless the court or judge shall otherwise order no guardian shall be appointed to the person or estate of any infant of the age of fourteen years or over without the consent of such infant) and letters of appointment may be obtained as in the case of letters of administration. A record of every appointment and removal shall be made and the like record thereof kept with the papers upon which the appointment and removal is made in like manner as near as may be as in the case of probate and administration. C. O. 21, R. 564.

**Letters of appointment**

**Mother may be appointed notwithstanding other appointment by father**

565. The court or judge may upon hearing the petition of the mother of an infant whose father is dead appoint the mother or some other person to take the guardianship of the person of the infant notwithstanding any testamentary provisions to the contrary or any appointment of another person as guardian by the father if it shall appear just and proper; and may also make an order for the maintenance of the infant by the payment out of any estate to which the infant is or shall be entitled of such sum or sums of money from time to time as according to the value of the estate such court or judge thinks just and reasonable. C. O. 21, R. 565.

**Maintenance of infant**

**Testamentary appointment of mother may be preferred to that of father**

566. The court or judge may give effect to the testamentary appointment of guardians by the mother of infant children either as respects the person or estate or one or both notwithstanding the previous appointment of guardians by testament of the father of such infants upon petitions presented and facts proved, if it shall seem advisable and in the interests of the infants to do so; and make an order for the maintenance of the infants as in the last preceding rule mentioned. C. O. 21, R. 566.

**Maintenance**

**Testamentary guardians and trustees Removal**

567. Testamentary guardians and trustees may be removed for proper cause the same as others guardians and trustees. C. O. 21, R. 567.

**General powers of court or judge**

568. In all matters and applications touching or relating to the appointment of guardians, control or removal of guardians of any infants and the security to be given by such guardians

or otherwise, the court or judge shall have full power and authority to summon and order the attendance of witnesses and to order the examination of the same before the court or judge and to order the production of deeds, writings and documents and generally to enforce all orders, decrees and judgments in such manner as shall seem expedient according to the practice and procedure of the court in that behalf and in such manner as the court or judge shall direct. C. O. 21, R. 568.

**Appointment of guardian on notice to mother**

569. Upon the written application of any infant or the friend or friends of any infant and upon notice thereof to the mother of such infant if living in the Territories the court or judge may upon a proper case made out for that purpose appoint some suitable and discreet person or persons to be guardian or guardians of such infant. C. O. 21, R. 569.

**Security by guardian**

570. There shall be taken from the guardian or guardians appointed by the court *except in the case of the appointment of the public administrator and official guardian* a bond in the name of the infant or infants in such penal sum and with or without sureties as the court or judge shall direct or approve having regard to the circumstances of each case; and such bond shall be conditioned that the said guardian or guardians shall and will faithfully perform the said trust and that he or they, his or their executors or administrators shall and will when the said ward becomes of the full age of twenty-one years or whenever thereunto required by the court or judge render to his or their said ward or his or their executors or administrators a true and just account of all goods, moneys, interests, rents and profits of property of such ward which have come or which might but for his or their default have come into the hands of such guardian or guardians and that he or they shall and will thereupon without any delay deliver and pay over to the said ward or to his or her executors or administrators the property or the sum or balance of money which may be in the hands of the said guardian or guardians belonging to such ward deducting therefrom and retaining a reasonable sum for the expenses and charges of the said guardian or guardians; and such bond shall be filed and recorded in the books in the office of the clerk of the court but in cases where the estate is of small value such bond or bonds may be dispensed with. C. O. 21, R. 570, amended by 1903, Sess. 1, c. 8, s. 8.

**May be dispensed with**

**Apprenticing infants**

571. The guardian or guardians of the person of an infant so appointed may during the continuance of his or her guardianship in case the infant be under the age of fourteen years with the approbation of two justices of the peace and the con-

sent of such ward or in case the infant be not under the age of fourteen years then with the consent of the ward only place or bind him or her an apprentice to any lawful trade, profession or employment; such apprenticeship in the case of males not extending beyond the age of twenty-one years and in the case of females not beyond the age of eighteen years or the marriage of the ward within that age. C. O. 21, R. 571.

572. The court or judge may on proper cause being shown for that purpose discharge any such ward from the apprenticeship in the last preceding rule mentioned and order the articles or instrument of apprenticeship to be delivered up to be cancelled or make such other order in respect of the master or apprentice or either of them as shall under the circumstances appear to be proper and just; and may also upon reasonable complaint made and sustained remove any guardian or guardians from his or their guardianship and if it shall appear necessary appoint another guardian or guardians in his or their stead. C. O. 21, R. 572.

**Discharging apprenticeship**

**Removal of guardian**

573. The practice and procedure in respect of guardianship and all questions relating thereto shall conform as nearly as the circumstances will admit to the practice and procedure in England:

Provided always that the court or judge may in any case where the circumstances warrant it to save expenses vary the same. C. O. 21, R. 573.

**Practice and procedure**

### II.—*Custody of Infants.*

574. The court or judge upon application by the mother of any infant being in the sole custody or control of the father thereof or of any other person by his authority or of any other person without his authority or of any guardian after the death of the father may make an order for the access of the mother to such infant at such times and subject to such regulations as the court or judge thinks convenient and just; and if such infant be within the age of twelve years may make an order for the delivery of such infant into the custody and control of the mother and there to remain for such time and under such conditions as the court or judge shall prescribe; and in dealing with any such application the court or judge may also make an order for the maintenance and education of such infant by payment by the father thereof or by payment out of any estate to which such infant may be entitled of such sum or sums of money from time to time as according to the pecuniary cir-

**Order for access of mother**

**Delivery to mother**

**Maintenance and education**

Custody of infants generally

cumstances of such father or the value of such estate the court or judge thinks just and reasonable. As a rule the father shall have the custody and control of his infant children but it shall be lawful for the court or a judge on a proper case made for that purpose to order any infant child or children to be delivered into the sole custody and control of the mother on such conditions and subject to such regulations as the circumstances and facts of the case shall render proper, reasonable and just, wherever such child or children may be or under whatever authority or control they may have been placed, any law, usage or custom to the contrary notwithstanding. C. O. 21, R. 574.

Evidence on application

575. On the investigation of the facts on any application mentioned in the preceding rule the court or judge may enforce the attendance of any person before the court or judge and take evidence under oath touching the matter of the application by rule or order made for that purpose and on failure of the person to attend for the purpose aforesaid, after notice of the rule or order in that behalf, the court or judge may order that such person shall be committed for contempt of court or may decide such application on affidavits received and filed or to be received and filed or on the evidence taken *viva voce* and such affidavits. C. O. 21, R. 575.

Enforcement of orders

576. All orders and rules made by a judge or by the court under any of the preceding rules may in addition to all other remedies be enforced by the judge or by the court (according as the same shall be made by a judge or the court) by attachment or process for contempt. C. O. 21, R. 576.

Mother unsuitable for care of infant

577. No order directing that the mother shall have the custody of or access to an infant shall be made in virtue of the preceding rules in favour of a mother against whom adultery has been established or to whom the custody or control of an infant could not be safely confided on account of improper conduct or habits of life. C. O. 21, R. 577.

## III.—*Estate and Property of Infants.*

Disposition of property of infant under order of court

578. When an infant is seized or possessed of or entitled to any real estate in fee simple or for a term of years or otherwise howsoever in the Territories and the court or judge is of opinion that a sale, lease or other disposition of the same or any part thereof is expedient, necessary or proper in the interest of the infant or for the maintenance or education of the infant or that by reason of any part of the property being exposed to waste and dilapidation or to depreciation from any other cause

satisfactory to the court or judge, his interest requires or will be substantially promoted by such sale, lease or other disposition the court or judge may order the sale, letting for a term of years or other disposition of such real estate or any part thereof to be made under the direction of the court or judge or by the guardian of the infant or by any person appointed for the purpose in such manner and with such restrictions as may seem expedient and may order the infant to convey or demise or otherwise dispose of the estate as the court or judge thinks proper C. O. 21, R. 578.

**Application, by whom consent of infant**

579. The application shall be made in the name of the infant by his next friend or by his guardian but shall not be made without the consent of the infant if he is of the age of seven years or upwards. C. O. 21, R. 579.

**Execution of conveyance for infant**

580. When the court or judge deems it convenient that a conveyance should be executed by some person in the place of the infant the court or judge may direct some other person in the place of the infant to convey the estate. C. O. 21, R. 580.

**Conveyance to be effectual**

581. Every such conveyance whether executed by the infant or some person appointed to execute the same in his place shall be as effectual as if the infant had executed the same and had been of the age of twenty-one years at the time. C. O. 21, R. 581.

**Disposition of moneys raised**

582. The moneys arising from any such sale, lease or other disposition shall be laid out, applied and disposed of in such manner as the court or judge directs. C. O. 21, R. 582.

**Moneys raised from land to devolve as land**

583. On any sale, lease or other disposition so made the moneys so raised or the securities taken or the surplus thereof shall be of the same nature and character as the estate sold or disposed of and the heirs, next of kin or other representatives of the infant shall have the like interest in any surplus which may remain of the proceeds at the decease of the infant as they would in the estate sold or disposed of if no sale or other disposition had been made thereof. C. O. 21, R. 583.

**Incumbered estate Acceptance or permanent investment of sum in lieu of incumbrance**

584. If any real estate of an infant is subject to any incumbrance and the person entitled to such incumbrance consents in writing to accept in lieu of such incumbrance any gross sum of money which the court or judge thinks reasonable or the permanent investment of a reasonable sum of money in such manner that the interest thereof be made payable to the person

Proceedings before probate to restrain waste

591. Before probate of a will or letters of administration of the personal estate and effects of a deceased person have been granted any person may institute proceedings to restrain any one committing waste by dealing or intermeddling with the estate. When such proceedings have been taken in good faith for the preservation of the property the party instituting such proceedings shall be entitled to costs of the action unless the court or judge shall otherwise order. C. O. 21, R. 591.

Administrator *ad litem*

592. Where no probate of the will of a deceased person or letters of administration to his estate have been granted and representation of such estate is required in any action or proceeding in court the judge may appoint the public administrator administrator *ad litem* according as the case may require. C. O. 21, R. 592.

Direction of citations, summonses, etc.

593. Citations, summonses or notices issued by the court or judge in the exercise of probate jurisdiction may in the discretion of the judge instead of being directed to any person or persons by name be directed generally to the next of kin, creditors and other persons interested in the estate. C. O. 21, R. 593.

Newspaper publication of citations, etc.

594. All citations, summonses or notices issued by the court or judge in the exercise of probate jurisdiction may by order of a judge be published in such newspaper or newspapers published in the Territories as such judge may direct and for such time as he may direct and in that case no other notice or service thereof shall be necessary unless the judge shall otherwise direct. C. O. 21, R. 594.

Order for creditors to send in claims

595. A judge may on the application of any executor or administrator or of any trustee grant an order for creditors and others to send in to the executor, administrator or trustee claims against the estate of the testator, intestate or the trust estate as the case may be together with a statement of the securities if any held by them within such time as the judge may fix and notice of such order shall be published in such newspaper or newspapers as the judge may direct and the executor or administrator on the same being so published may at the expiration of the time so fixed be at liberty to distribute the assets of the testator or intestate or any part thereof and the trustee may in like manner be at liberty to distribute the trust estate or any part thereof amongst the parties entitled thereto having regard to the claims of which such executor, administrator or trustee has then notice and shall not be liable for the

Publication

Distribution of estate thereafter

assets or any part thereof or the trust estate or any part thereof as the case may be so distributed to any person of whose claim such executor, administrator or trustee shall not have had notice at the time of the distribution of the said assets or trust estate or part thereof as the case may be but nothing in this rule shall prejudice the right of any creditor or claimant to follow the assets or trust estate or any part thereof into the hands of the person or persons who may have received the same respectively. C. O. 21, R. 595.

**Verification of claims**

**Security to be valued**

596. Every creditor or other person presenting or sending in a claim to any executor, administrator or trustee shall verify the same by a statutory declaration and shall therein state whether he holds any security for his claim or any part thereof and shall give full particulars of the same; and if such security is on the estate of the debtor or on the estate of a third party for whom such debtor is only secondarily liable he shall put a specified value thereon and the executor, administrator or trustee may either consent to the right of the creditor or person presenting the claim to rank for the claim after deducting such valuation or he may require from the person presenting the claim an assignment of the security at the specified value to be paid out of the trust property or estate when sufficient is realised therefrom and in such case the difference between the value at which the security is retained by the executor, administrator or trustee and the just amount of the gross claim shall be the amount for which the creditor or other person shall rank in respect of the estate.

**Security consisting of negotiable instruments**

(*2*) If a creditor or other person holds a claim based upon negotiable instruments upon which the debtor is only indirectly or secondarily liable and which is not mature or exigible such creditor or other person shall be considered to hold security within the meaning of this rule and shall put a value on the liability of the party primarily liable thereon as being his security for the payment thereof but after the maturity of such liability and its nonpayment he shall be entitled to amend and revalue his claim.

**Omission to value security**

(*3*) In case a person presenting a claim holds security for his claim or any part thereof and he fails to value such security as required by this Ordinance a judge of the supreme court sitting in chambers may on summary application by the executor, administrator or trustee or by any other person interested in the trust property or estate, of which application three days' notice shall be given to such claimant, order that unless a specified value shall be placed upon such security and notified in writing to the executor, administrator or trustee within a time to be limited by the order such claimant shall in respect of the claim or the part thereof for which the security is held be wholly barred of any right to share in the proceeds of such trust property or estate; and if a specified value is not placed on such security and notified in writing to the executor, administrator or trustee according to the exigency of such order the said claim or the said part as the case may be shall be wholly barred as against such trust property or estate. C. O. 21, R. 596.

Administrators to file accounts

597. Every administrator to whom letters of administration have been issued more than two years prior to the coming into force of this Ordinance shall forthwith and every administrator since or hereafter appointed shall within two years after the grant of letters of administration or such further time as the court or judge may allow file in the office of the clerk of the supreme court in the district wherein the grant was made a statement and an account verified by his oath showing his administration of the estate and apply to the judge usually exercising jurisdiction in such district to have his accounts passed and allowed whereupon a summons may be issued calling upon the creditors, next of kin and all persons interested in the estate to attend the passing of the accounts. * * *

Application to pass accounts

(2) *Upon the passing of the accounts the judge may give such directions as to the remuneration of the administrator, the payment of debts or charges, and the distribution of the assets as to him may seem meet, and may direct the payment into court of any moneys to which any person under the age of twenty-one years or any person outside of the Territories is entitled.* C. O. 21, R. 597, repealed in part and amended by 1903, Sess. 1, c. 8, s. 9.

Proceedings by public administrator

598. The public administrator may obtain an originating summons as plaintiff under rule 481 of this Ordinance as if he were a creditor or one of the next of kin of the deceased, upon obtaining special leave of a judge to do so, which leave shall be granted by the judge *ex parte* upon his being satisfied by affidavit or otherwise that it is expedient to grant it. C. O. 21, R. 598.

Action in which infant interested Public administrator to be served and be guardian *ad litem*

599. Whenever an action is brought or is pending in respect of any property or estate in which one or more infants is or are interested the writ and statement of claim shall be served on the public administrator in the judicial district in which the writ was issued together with a statement giving the full name, age and address of such infant or infants, his or their

father, mother or guardian; and the public administrator shall be the guardian *ad litem* and shall enter an appearance for such infant or infants and shall for all puropses represent the infant or infants in such action.

(*2*) It shall be the duty of the public administrator to make all necessary or proper inquiries, to take all necessary or proper proceedings and to protect and actively attend to the interests of the infant. **Duties**

(*3*) The costs of the guardian *ad litem* shall be taxed as between party and party and shall, subject to the discretion of the judge, generally be paid out of the estate. C. O. 21, R. 599. **Costs**

600. In any case in which it may appear desirable the court or judge may appoint the public administrator guardian of the estate of any infant or of the estate of any lunatic. C. O. 21, R. 600. **Public administrator may be guardian**

601. The public administrators and all other executors and administrators shall be entitled to such remuneration for their services (in addition to the costs of the grant of the probate or administration) as the judge may allow, to be charged against and deducted from the estate passing through their hands or to be paid by the successor of the public administrator out of the assets of the deceased; and such remuneration shall be a first charge on the estate after payment of the costs of probate or administration, funeral and testamentary expenses. C. O. 21, R. 601. **Remuneration of public administrators**

# Part III.

## Small Debt Procedure.

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### ORDER XLVII.

Claims for debt under $100

602. In all claims and demands for debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed $100 the procedure shall, unless otherwise ordered or allowed by a judge, be as follows: C. O. 21, R. 602.

Entry of action

Particulars of claim

603. Every plaintiff when he enters an action with the clerk shall do so by leaving with him (by post or otherwise) a simple statement in writing (with a copy to file and one for each copy of writ desired) of the cause of action; in the case of an account the particulars may be in the usual form of items of an account or otherwise; in the case of a bill, note or order a copy thereof shall be furnished and in the case of a claim under any other written instrument a copy shall be furnished or a concise statement of the purport or effect of it shall be given to the extent of exhibiting the grounds of action so that in each case it may be known or understood by a person of ordinary intelligence what the action is brought for and the clerk shall attach such statement to the summons and shall attach to each copy of the summons a copy of such statement. C. O. 21, R. 603.

Address of parties

604. The plaintiff shall also at the time he so delivers his statement to the clerk inform him of his post office address and of the full name of the defendant where practicable and also of his place of residence and post office address with as much certainty and particularity as possible. C. O. 21, R. 604.

Issue of summons

605. Upon receipt of such claim and upon payment of the proper fees therefor the clerk shall enter such claim in the procedure book to be kept by him for that purpose and shall issue a summons corresponding in substance with form H in the schedule hereto where the cause of action is within rule 610 hereof and with the form J in the schedule hereto where the cause of action is not within the said rule and shall make out as many copies of the said summons as there are defendants. C. O. 21, R. 605.

Delivery of summons

606. Upon the issue of the said summons the clerk shall deliver or transmit the same and the copies thereof with the copies of claim attached thereto to the plaintiff or as he may

direct and shall attach to the original summons as many copies of the affidavit of service in form K in the schedule hereto as there are defendants in the said suit. C. O. 21, R. 606.

607. The summons shall be returnable:

Time for return of summons

*1.* Where the defendant resides in the judicial district from whence the summons issued, at the expiration of twenty days from the service thereof;

*2.* Where the defendant resides in any judicial district in the Territories other than that in which such summons issued, at the expiration of twenty-five days from the service thereof;

*3.* Where the defendant resides in any place in Canada outside the Territories or in the United States of America, at the expiration of thirty days from the service thereof;

*4.* Where the defendant resides in any part of the United Kingdom, at the expiration of thirty days from the service thereof;

*5.* In any of the above cases it shall not be necessary to obtain an order for service out of the jurisdiction. C. O. 21, R. 607.

Return to clerk after service

608. After the service of the said summons upon the defendant the plaintiff shall forthwith cause it to be returned to the clerk accompanied by an affidavit of service thereof in the said form K. C. O. 21, R. 608.

Clerk to notify plaintiff if dispute entered

609. After the receipt of such summons with the affidavit of service thereof the clerk shall, after the expiration of the time limited therein for appearance thereto, notify the plaintiff or his advocate whether the defendant has or has not entered a dispute to the same. C. O. 21, R. 609.

Entry of judgment by default of dispute

610. In actions where the claim or demand is a mere account or is ascertained by some instrument signed by the defendant as a merchant's account, the price of goods sold and delivered, a claim for work and services, money paid, money lent, rent, a promissory note, a bill, order, bond, covenant for the payment of money or other memorandum showing liability for the payment of a sum certain or which can be ascertained by computation and the defendant does not appear according to the writ of summons the clerk may upon the said summons being returned to him with an affidavit of the due service thereof, after the time for appearance has expired, sign judgment for the amount of the claim and costs against the defendant by entering in his procedure book the words "judgment against

# Part III.

## Small Debt Procedure.

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### ORDER XLVII.

**Claims for debt under $100**

602. In all claims and demands for debt, whether payable in money or otherwise, where the amount or balance claimed does not exceed $100 the procedure shall, unless otherwise ordered or allowed by a judge, be as follows: C. O. 21, R. 602.

**Entry of action**

**Particulars of claim**

603. Every plaintiff when he enters an action with the clerk shall do so by leaving with him (by post or otherwise) a simple statement in writing (with a copy to file and one for each copy of writ desired) of the cause of action; in the case of an account the particulars may be in the usual form of items of an account or otherwise; in the case of a bill, note or order a copy thereof shall be furnished and in the case of a claim under any other written instrument a copy shall be furnished or a concise statement of the purport or effect of it shall be given to the extent of exhibiting the grounds of action so that in each case it may be known or understood by a person of ordinary intelligence what the action is brought for and the clerk shall attach such statement to the summons and shall attach to each copy of the summons a copy of such statement. C. O. 21, R. 603.

**Address of parties**

604. The plaintiff shall also at the time he so delivers his statement to the clerk inform him of his post office address and of the full name of the defendant where practicable and also of his place of residence and post office address with as much certainty and particularity as possible. C. O. 21, R. 604.

**Issue of summons**

605. Upon receipt of such claim and upon payment of the proper fees therefor the clerk shall enter such claim in the procedure book to be kept by him for that purpose and shall issue a summons corresponding in substance with form H in the schedule hereto where the cause of action is within rule 610 hereof and with the form J in the schedule hereto where the cause of action is not within the said rule and shall make out as many copies of the said summons as there are defendants. C. O. 21, R. 605.

**Delivery of summons**

606. Upon the issue of the said summons the clerk shall deliver or transmit the same and the copies thereof with the copies of claim attached thereto to the plaintiff or as he may

direct and shall attach to the original summons as many copies of the affidavit of service in form K in the schedule hereto as there are defendants in the said suit. C. O. 21, R. 606.

607. The summons shall be returnable:

**Time for return of summons**

*1.* Where the defendant resides in the judicial district from whence the summons issued, at the expiration of twenty days from the service thereof;

*2.* Where the defendant resides in any judicial district in the Territories other than that in which such summons issued, at the expiration of twenty-five days from the service thereof;

*3.* Where the defendant resides in any place in Canada outside the Territories or in the United States of America, at the expiration of thirty days from the service thereof;

*4.* Where the defendant resides in any part of the United Kingdom, at the expiration of thirty days from the service thereof;

*5.* In any of the above cases it shall not be necessary to obtain an order for service out of the jurisdiction. C. O. 21, R. 607.

**Return to clerk after service**

608. After the service of the said summons upon the defendant the plaintiff shall forthwith cause it to be returned to the clerk accompanied by an affidavit of service thereof in the said form K. C. O. 21, R. 608.

**Clerk to notify plaintiff if dispute entered**

609. After the receipt of such summons with the affidavit of service thereof the clerk shall, after the expiration of the time limited therein for appearance thereto, notify the plaintiff or his advocate whether the defendant has or has not entered a dispute to the same. C. O. 21, R. 609.

**Entry of judgment by default of dispute**

610. In actions where the claim or demand is a mere account or is ascertained by some instrument signed by the defendant as a merchant's account, the price of goods sold and delivered, a claim for work and services, money paid, money lent, rent, a promissory note, a bill, order, bond, covenant for the payment of money or other memorandum showing liability for the payment of a sum certain or which can be ascertained by computation and the defendant does not appear according to the writ of summons the clerk may upon the said summons being returned to him with an affidavit of the due service thereof, after the time for appearance has expired, sign judgment for the amount of the claim and costs against the defendant by entering in his procedure book the words "judgment against

the defendant by default," stating the date of such entry and such entry shall be the judgment of the court in the cause and execution may issue and other lawful proceedings be taken thereon:

Execution

Setting aside judgment

Provided always it shall be competent for any judge on application by the person feeling himself aggrieved by any such judgment to set aside the said judgment and to let the defendant in to defend the said action, or to stay proceedings on such terms as to costs and otherwise as to him shall seem just. C. O. 21, R. 610.

Notice of dispute

611. If the defendant desires to defend any action or suit he must cause a written dispute note in form L in the schedule hereto to be delivered by post or otherwise to the clerk before the entry of judgment in which shall be stated briefly the nature or grounds of his defence and where a claim is disputed in part only he shall state what part thereof or the items he disputes.

(*2*) The defendant shall in his notice of dispute give his post office address. C. O. 21, R. 611.

Setoff or counterclaim

612. A defendant in any action may set off or set up by way of counterclaim against the claim of the plaintiff any right or claim whether such set off or counterclaim sound in damages or not; such set off or counterclaim shall have the same effect as if such relief were sought in a cross action so as to enable the court to pronounce a final judgment in the same action both on the original and on the cross claim. C. O. 21, R. 612.

Setting down for trial

613. After the filing by the defendant of his dispute note the clerk shall inform the judge that such dispute is so filed and the judge shall thereupon set the case down for trial in chambers or such other place as the judge may deem expedient and at such time as to him may seem expedient:

Striking out dispute, etc.

Provided however that this rule shall in no wise affect the right of the plaintiff to move to strike out the said dispute note and for judgment or in any way curtail the powers given under rule 620 hereof:

Representation at trial

Provided further that either party may be represented on the trial in person by advocate or agent. C. O. 21, R. 613.

Notice of trial

614. Upon the time and place of trial of an action being so fixed by the judge the clerk shall notify each party to appear for trial and that in default of appearance thereat judgment may be given against him by default with costs; such notice of the time and place fixed for such trial shall be forwarded by registered post to the respective addresses given by them:

Provided that if a defendant shall in his notice of dispute omit to state his post office address the notice to him shall be mailed to the address stated by the plaintiff as required by rule 604 hereof. C. O. 21, R. 614.

**Application for postponement or change of place of trial**

615. At any time before the trial of the action either of the parties may on reasonable notice to the other party or at the trial without notice apply for a postponement of the trial or a change of the place fixed for the same and the judge may thereupon give such direction as to postponement or change of place of trial and as to costs as he may deem fit.

**Service of notices, etc.**

(2) All notices, summonses to show cause and orders requird to be served upon any party to the action may, unless otherwise ordered by the judge, be served by mailing the same to him by registered post to the post office address given by him to the clerk of the court under the provisions hereof or if no such address has been given to his last known post office address. C. O. 21, R. 615.

**Suit erroneously brought under general procedure or recovery of less than $100**

616. Unless the judge shall otherwise order, in case any action falling within the class provided for in this order is brought under the general procedure and the plaintiff succeeds or in case in an action of debt brought under the general procedure to recover over $100 the plaintiff recover less than that sum he shall recover only such costs as he would have recovered had the action been brought under the provisions of this order

**Costs**

and the defendant in any such action shall be entitled to tax his costs of suit between advocate and client and so much thereof as exceeds the taxable costs of defence which would have been incurred had the proceedings been had under this order shall on entering judgment be set off and allowed by the clerk against the plaintiff's costs to be taxed against the costs to be taxed and the amount of the judgment if it be necessary and if the amount of the costs so set off exceeds the amount of the plaintiff's judgment and taxed costs the defendant shall be entitled to judgment for the excess against the plaintiff. C. O. 21, R. 616.

**Advocate's fees**

617. In every case where an action is defended and an advocate is employed by the successful party the clerk in addition to all other costs shall unless otherwise ordered by the judge tax to the successful party an advocate's fee equal to ten per cent. of the amount of the judgment recovered if such fee is taxable to the plaintiff or equal to ten per cent. of the amount claimed by the plaintiff in the action if such fee is taxable to the defendant:

Provided that in no case shall the fee so taxable be less than $1 and except as herein provided no other counsel or advocate fee shall be taxable or payable as between party and party. C. O. 21, R. 617.

Clerk's and sheriff's fees

618. There shall be paid to the clerk or deputy clerk and sheriff or deputy sheriff respectively for their services in actions and suits within the provisions of this order the fees prescribed by the tariffs of clerk's and sheriff's fees in *The Small Debt Tariff* contained in the schedule hereto. C. O. 21, R. 618.

Witness and interpreter fees

619. Witnesses and interpreters in actions and suits within the provisions of this order shall be entitled to the fees and remuneration set forth in *The Small Debt Tariff* contained in the schedule hereto and such fees shall be taxable to or against the successful party as the case may be to the same extent as they are taxable in other cases under this Ordinance:

Cost of evidence by commission etc.

Provided that the judge may in any case direct the taxation to either party of the reasonable costs and expenses of obtaining evidence by commission or otherwise. C. O. 21, R. 619.

Adoption of general procedure

620. Except as to the matters specially provided for in this order the procedure or practice under the preceding orders and rules where not inconsistent herewith shall be adopted and applied in actions brought under this order. C. O. 21, R. 620.

Præcipe and indorsement unnecessary

621. It shall not be necessary upon the commencement of any proceeding or the issue of any process in actions coming under the provisions of this order for any party to file a præcipe nor shall it be necessary to indorse upon any such process the name of the person by whom or on whose behalf the same was issued. C. O. 21, R. 621.

Informalities

622. No proceedings under this order shall be deemed invalid for informality provided the same are a substantial compliance with the requirements of this order as to such proceeding. C. O. 21, R. 622.

## SCHEDULE.

### FORM A.

(*Rule 1.*)

### WRIT OF SUMMONS.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of (*residence*)
Plaintiff,
and
of (*residence*)
Defendant.

VICTORIA, (*or name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (*or as the case may be*), Defender of the Faith, etc., etc., etc.

To the above named defendant:

You are notified that the plaintiff has entered an action against you in the above named court for the recovery of the claim or demand a statement of which is filed in court and annexed to this summons.

And you are *notified* that if you dispute the said claim either in whole or in part you do within days from the service of this writ on you, exclusive of the day of such service, cause to be entered for you in the office of the clerk of this court an appearance and within six days thereafter file with the clerk a statement of the grounds on which such dispute is based.

And take notice that in default of your so doing the plaintiff may proceed in his said action and judgment may be given in your absence and without further notice to you.

Issued at the
day of A.D. 1
*I.J.,*
[L.S.] *Clerk of the Court.*

C. O. 21 and 1901, c. 10, s. 11.

### MEMORANDA TO BE INDORSED ON WRIT.

N.B.—This writ is to be served within twelve months from the date thereof; or if renewed within six months from the day of the last renewal including the day of such date and not afterwards.

This writ was issued by the plaintiff who resides at and (*if residence over three miles from the clerk's office*) whose "address for service" is at

*Or,* This writ was issued by of advocate for the plaintiff whose "address for service" (*if the advocate's office is over three miles from the clerk's office*) is at

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## FORM B.

(*Rule 355.*)

### Writ of Execution.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of
Plaintiff,
and
of
Defendant.

VICTORIA, (*or name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (*or as the case may be*), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Judicial District:

You are commanded that of the goods (*or* lands *as the case may be*) of in the judicial district, you cause to be made dollars and cents which lately by the judgment (*or* order *as the case may be*) of the said court recovered against him , and that you have the said money and in what manner you shall have executed this writ make appear to the said court at , immediately after the execution thereof before the said court at together with this writ.

Issued at this day of A.D. 1

*I.J.,*
*Clerk of the Court.*

(L.S.)

C. O. 21.

## FORM C.

*(Rule 384.)*

### GARNISHEE SUMMONS.

In the Supreme Court of the North-West Territories.
Judicial District of

Between
of
Plaintiff,
and
of
Defendant,
and
of
Garnishee.

To the above named Garnishee:

You are hereby notified that a suit has been entered in this court in which the plaintiff claims of the defendant the sum of as shown by his statement of claim filed in court a copy of which is hereto annexed (*or* You are hereby notified that the plaintiff has recovered a judgment in this court against the defendant for ) and it is alleged on affidavit filed that you are indebted to the said defendant.

And you are required within *twenty* days from the service hereof to *notify the clerk by statement* in writing whether or not there is any debt due or accruing due from you to the defendant (*or* judgment debtor) and, if so, what debt and why you should not pay the same into court to the extent of the plaintiff's claim and costs.

Issued at this day of A.D. 1

*I.J.,*
(L.S.) *Clerk of the Court.*

*(To be indorsed same as a Writ of Summons.)*

C. O. 21; 1901, c. 10, s. 12 and 1902, c. 5, s. 4.

## FORM D.

(*Rule 417.*)

### WRIT OF ATTACHMENT.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of
Plaintiff,
and
of
Defendant.

VICTORIA, (*or the name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (*or as the case may be*), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Judicial District:

You are commanded to attach, seize and safely keep all the personal estate, credits and effects together with all evidences of title, debts, books and book accounts or other documents, vouchers or papers belonging thereto or otherwise of the above named defendant to secure and satisfy the plaintiff the sum of with his costs of action and to satisfy the debt and demand of such other creditors of the said defendant as shall prosecute their claims to judgment and lodge executions with you the said sheriff within the time allowed by *The Creditors' Relief Ordinance* to entitle them to share in the distribution of the proceeds.

And we command you the said sheriff that so soon as you shall have executed this writ you do return the same with an affidavit of service and a certificate of your action thereunder.

Issued at this day of A.D. 1

*I.J.,*
(L.S.) *Clerk of the Court.*

C. O. 21.

## FORM E.

(*Rule 426.*)

### WRIT OF REPLEVIN.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of
Plaintiff,
and
of
Defendant.

VICTORIA, (*or the name of the reigning Sovereign as the case may be*) by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN (*or as the case may be*), Defender of the Faith, etc., etc., etc.

To the Sheriff of the Judicial District:

You are hereby commanded without delay to cause to be
perty following that is to say:
which the said alleges to be of the
hath taken and unjustly detained (*or* unjustly detains *as the case may be*) as it is alleged, in order that the plaintiff may have his just remedy in that behalf.

Issued at this day
of A.D. 1

*G.H.*,
(L.S.) *Clerk of the Court.*
C. O. 21.

value of dollars and which the defendant

---

## FORM F.

(*Rule 428.*)

### BOND FOR REPLEVIN.

Know all men by these presents that we, *A.B.*, of
*E. F.*, of and
*G.H.*, of
sheriff of the Judicial District in the sum
replevied to the plaintiff his goods, chattels and personal pro-
of dollars of lawful money to be paid to
are jointly and severally held and firmly bound to the

the said sheriff, his successor in office or either of their assigns for which payment well and truly to be made we bind ourselves and each and every of us in the whole, our and every of our heirs, executors and administrators firmly by these presents. Sealed with our seals, dated this day of one thousand ,

Whereas the said *A.B.* has obtained a writ of replevin against *C.D.* to obtain possession of certain cattle (*or* goods) to wit: which the said *A.B.* asserts to be his property:

Now the condition of this obligation is such that if the said *A.B.* shall prosecute his suit in which the said writ is issued with effect and without delay or if suit is carried on and continued between the said *A.B.* and *C.D.* touching the property of the said cattle (*or* goods) and the court shall adjudge that the said cattle (*or* goods) be restored to the said *C.D.* with damages for detaining the same and during such detention then if the said *A.B.* shall comply with such adjudication and pay and satisfy any judgment that may be obtained against him this bond shall be void.

Signed, sealed and delivered in the presence of
*A.B.*, [L.S.]
*E.F.*, [L.S.]
*G.H.*, [L.S.]

(*When the plaintiff himself does not join in the bond the form must be altered to conform to the facts.*) Cl. O. 21.

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## FORM F (1).

### BOND TO RETAIN POSSESSION OF PROPERTY.

Know all men by these presents that we, *C.D.* (*defendant*) of *E.F.* of and *G.H.* of are jointly and severally held and firmly bound to the sheriff of the Judicial District in the sum of dollars of lawful money to be paid to the said sheriff, his successor in office, or either of their assigns, for which payment well and truly to be made we bind ourselves, and each and every of us in the whole, our and every of our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, dated this day of one thousand nine hundred and

Whereas the said *C.D.* claims to retain certain cattle (*or* goods) to wit: , to recover possession of which *A.B.* has obtained a writ of replevin.

Now the condition of this obligation is such that if the court shall adjudge that the said cattle (*or* goods) shall be restored to the said *A.B.*, with or without damages for detaining the same, then if the said *C.D.* shall restore the said cattle (*or* goods) and pay and satisfy any judgment that may be recovered against him this obligation shall be void, but otherwise shall remain in force.

| | |
|---|---|
| Signed, sealed and delivered in the presence of | *C.D.* [L.S.]<br>*E.F.* [L.S.]<br>*G.H.* [L.S.] |

(*Where the defendant himself does not join in the bond the form must be altered to conform to the fact.*) 1901, c. 10, s. 13.

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## FORM G.

(*Rule 470.*)

### ORIGINATING SUMMONS.

In the Supreme Court of the North-West Territories.
Judicial District of

(*Here insert style of cause or matter.*)

Let all parties concerned attend at judge's chambers at in on the day of on the hearing of an application on the part of that (*Here set out the object of the application*).

If you do not attend either in person or by your advocate at the time and place above mentioned such order will be made in your absence as may seem just and expedient.

*K.L.*,
*J.S.C.*

This summons was taken out by advocate for the applicant.

### TARIFF OF WITNESSES', JURORS' AND INTERPRETERS' FEES.

(*Rule 531.*)

Witnesses and jurors may be allowed the following fees:

| | |
|---|---|
| For every day necessarily absent from residence, in going to, staying at and returning from trial or other proceeding | |
| When residence is within two miles of place of trial | $ 1 00 |
| When over two miles | 2 00 |

| | |
|---|---|
| For every mile necessarily travelled by other means than railway........................... | $ 10 |
| When railway used, actual fare paid. | |
| Professional men, when acting professionally in addition to mileage as other witnesses, per day...... | 5 00 |

### INTERPRETERS.

| | |
|---|---|
| Interpreters may when used be allowed the same mileage as witnesses and for each day actually engaged as interpreters..................... | 2 00 |

No. 6 of 1893.

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## FORM H.

(*Rule 605.*)

### SMALL DEBT SUMMONS A.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of
Plaintiff,
and
of
Defendant.

To *C.D.*, the above named defendant:

The plaintiff demands of you $ , as shown by his claim hereto attached or indorsed hereon.

You are notified that this summons is returnable on the day after the day of the service thereof upon you. If you dispute the claim or any part thereof you are to leave with the clerk of this court at in said Judicial District within days after the said service upon you the dispute note hereto attached or one to the like effect otherwise after such return day has passed the clerk may sign judgment against you by default for the plaintiff's claim and costs but in case you give or send by mail or otherwise said dispute note to the said clerk together with the sum of $ for his fees and he receives the same within the said time the cause will be tried at a sittings of this court and you will receive due notice of the time and place of such trial by registered letter sent prepaid to the address given by you in said dispute note.

Dated the day of 1 .

By the Court,

*I.J.,*
*Clerk.*

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## FORM J.

*(Rule 605.)*

### SMALL DEBT SUMMONS B.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
of
Plaintiff,
and
of
Defendant.

To *C.D.*, the above named defendant:

Take notice that the plaintiff claims from you $ as shown by his claim hereto attached or indorsed hereon.

If you dispute the same or any part thereof you are to leave with the clerk of this court at in said Judicial District within days after the service hereof upon you the dispute note hereto attached or one to the like effect. In case you give or send by mail or otherwise the said dispute note to the said clerk together with the sum of $ for his fees and he receives the same within the said time the cause will be tried at a sittings of this court and you will receive due notice of the time and place of such trial by registered letter sent prepaid to the address given by you in such dispute note.

If no such dispute note is filed the plaintiff's cause of action shall be deemed to be admitted and the amount the plaintiff is entitled to recover in respect thereof will be ascertained in such manner as a judge shall direct.

Dated the day of 1 .

By the Court,

*I.J.,*
*Clerk.*

## FORM K.

(*Rule 606.*)

### SMALL DEBT—AFFIDAVIT OF SERVICE.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
*A.B.*,
Plaintiff,
and
*C.D.*,
Defendant.

I, of (*occupation*) make oath and say:

*1.* That I did on the day of 1 , personally serve *C.D.*, the above named defendant with a true copy of the summons herein hereunto annexed by delivering the said copy to and leaving the same with the said defendant at

*2.* That at the time of such service there was attached to the said copy of summons so served a true copy of the particulars of claim attached to or indorsed upon the said annexed summons.

*3.* That at the time of such service there was also attached to the said copy of summons a blank form entitled in this cause of which the form marked "L" is a true copy.

*4.* That to effect such service I necessarily travelled miles. (*Jurat.*)

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## FORM L.

(*Rule 611.*)

### SMALL DEBT—DISPUTE NOTE.

In the Supreme Court of the North-West Territories.
Judicial District of
Between
*A.B.*,
Plaintiff,
and
*C.D.*,
Defendant.

Take notice that I dispute the plaintiff's claim on the following grounds:

*(Here state briefly the grounds of defence in such manner that the particular nature of the defence may readily be ascertained.)*

My post office address is:

*C.D.,*

N.B.—This note must be sent by mail or otherwise to the clerk of the Supreme Court at (*address to be filled in by clerk*) within days from service.

## SMALL DEBT TARIFF.

*(Rules 618 and 619.)*

### CLERK'S FEES.

The following fees and no others shall be paid to clerks of the court for the several services under the Small Debt procedure herein provided for:

| | cts. |
|---|---|
| Receiving claim, entering in procedure book and issuing summons | 75 |
| Garnishee summons or writ of attachment, including examining affidavits | 50 |
| Every original subpœna | 50 |
| Every copy of summons, garnishee or subpœna | 10 |
| Entering dispute note, or appearance by garnishee | 25 |
| On payment of money into court without dispute note | 25 |
| Every notice of trial | 20 |
| Hearing fee in contested cases | 50 |
| Every chamber summons or judge's order, including entering | 25 |
| Every commission to examine witnesses or exemplification of judgment | 50 |
| Every appointment | 10 |
| Every search | 10 |
| Entering every judgment by default including search for dispute and taxation of costs and necessary filings | 50 |
| Entering every judgment after trial or order for judgment | 50 |
| Filing every exhibit at trial (no other filings to be allowed | 10 |
| Every reference to the clerk, per hour actually engaged | 75 |
| Every certificate | 25 |
| Every writ of execution | 50 |
| Every renewal thereof | 25 |
| Copies of documents, per folio | 10 |
| Necessary postages. | |

## SHERIFF'S FEES.

The following fees and no others shall be allowed to sheriffs, deputy sheriffs and bailiffs for services under the Small Debt procedure:

| | |
|---|---|
| Service of summons or other process including affidavit of service, oath and return | $ 50 |
| Every seizure | 50 |
| Schedule of goods seized, including copy for person whose goods seized | 75 |
| When over 500 words, per 100 over 500 | 10 |
| Every mile necessarily travelled * * * to serve summons or process, or in going to effect seizure under an attachment or under execution where money made or settlement effected after levy, provided that there shall be only one allowance of mileage fees in and about a seizure and the sale consequent thereon | 10 |
| Every bond including affidavits | 1 00 |
| Notice of sale | 30 |
| Each copy not exceeding five including posting up | 10 |
| Notice of postponement including copies | 25 |
| All necessary disbursements for removal and care of property seized | |
| For poundage on executions, five per cent., but not upon any sum greater than called for by the writ under which the officer acts | |
| *Receiving, entering and returning every writ of execution* | 25 |

## WITNESS FEES.

In cases under Small Debt Procedure:

| | |
|---|---|
| Attendance, per day | $1 00 |
| Mileage, each way | 10 |

Where railway can conveniently be used witnesses shall only be allowed such sum as would be sufficient to pay railway fare in coming to and returning from place of trial in no case to exceed mileage at above rate.

## INTERPRETERS.

In cases under Small Debt Procedure:

| | |
|---|---|
| Per day employed | $2 00 |

# JUDICATURE.

AMENDMENT.

## An Ordinance to amend Chapter 21 of "The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Administration of Civil Justice."

1899, c. 5

[*Assented to April 29, 1899.*] 29 April, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** Chapter 21 of *The Consolidated Ordinances 1898* is amended by adding to section 17 thereof the following subsection: * * * * * * * *

**2.** * * * * * * * * *

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# JUDICATURE.

AMENDMENT.

## An Ordinance to further amend Chapter 21 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Administration of Civil Justice."

1900, c. 5

[*Assented to May 4, 1900.*] 4 May, 1900

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Appointment of deputy by clerk or sheriff

**1.** Each clerk of the court and sheriff may appoint a deputy at the place at which he resides and keeps his office, who (in the absence of such clerk or sheriff) shall have and exercise all the powers of such clerk or sheriff respectively.

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# JUDICATURE.

AMENDMENT.

## An Ordinance to amend Chapter 21 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Administration of Civil Justice."

1903 sess. 2, c. 6

[*Assented to November 21, 1903.*] 21 Nov. 1903

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Section 51 N.W.T. Act repealed

**1.** Section 51 of *The North-West Territories Act* is hereby repealed.

**2.** *The Judicature Ordinance* is hereby amended by adding after section 7 the following section:

* * * * * * * * * * * *

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# JURIES.

C.O. 1898, c. 28

## An Ordinance respecting Juries.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Persons qualified as jurors

**1.** Subject to the exemptions hereinafter mentioned all male British subjects over twenty-one and under sixty years of age shall be qualified to serve as jurors in cases tried by jury in the judicial district in which they reside. C. O. 28, s. 1.

Persons exempt

**2.** The following persons are exempt from serving as jurors:

(*a*) Ministers of religion;

(*b*) Members of the Legislative Assembly and officers thereof;

(*c*) Members of the North-West Mounted Police;

(*d*) Practising advocates;

(*e*) Medical practitioners;

(*f*) All salaried officials of the Dominion and North-West Governments;

(*g*) Licensed ferrymen and school teachers while so employed;

(*h*) All persons employed in the running of railway trains;

(*i*) Telegraph operators while so employed;

(*j*) Postmasters. C. O. 28, s. 2.

Service once in two years

**3.** No person shall be called upon to serve as a juror more than once in two years unless there shall not be a sufficient number of qualified persons to serve as jurors residing within the requisite distance of the place of trial as hereinafter mentioned. C. O. 28 s. 3.

Sheriff to furnish list of persons qualified

4. The sheriff of each judicial district whenever required so to do by a judge of the supreme court shall furnish the clerk of the said court in such judicial district with a revised list containing in appropriate columns the names, residences and occupations of all persons within the said district qualified to serve as jurors. C. O. 28, s. 4.

When trial by jury ordered clerk to produce list

5. Whenever an order has been made for the trial by jury of issues of fact in any civil cause the clerk shall make out from the last revised list of persons qualified to serve as jurors in his district a special list containing the names, residences and occupations of all such persons whose residences do not exceed twenty miles from the place fixed by the order for holding such trial and shall produce the same before the judge in chambers at such time as he may appoint:

When number insufficient clerk may increase

Provided always that whenever the number of qualified persons to serve as jurors within the distance aforesaid is less than twenty-four the names of any other qualified persons residing outside of such distance and nearest to the place of trial shall be added to the special list so as to bring the number up to twenty-four; but if the number of names on such list exceeds twenty-four the clerk in the presence of the judge shall draw from the said list by ballot twenty-four names and the said list so increased or reduced to twenty-four names shall be a special list from which the panel to form the jury in the case is to be struck as hereinafter provided. C. O. 28, s. 5.

Striking panel Notice to parties

6. The judge shall thereupon appoint a day and an hour at his chambers for striking the panel, one day's notice whereof shall be given by the clerk to the parties interested. C. O. 28, s. 6.

Right of challenge

7. Each party to the suit attending the striking of the panel shall be entitled to four peremptory challenges by striking alternately, if both parties are present, from the special list the name of one of the persons therein designated to the requisite number of four each the clerk marking each name as the same is struck out and the clerk shall then strike off from the top and foot of said list alternately all unchallenged names except twelve which shall constitute the panel to be summoned. C. O. 28, s. 7.

Jury list in criminal matters

8. Whenever a jury is required for the trial of any person charged with a criminal offence the clerk on receiving notice from the judge of the fact shall prepare a special list and produce it before the judge in chambers as required in civil matters. C. O. 28, s. 8.

Panel

**9.** On the production of such special list the clerk in the presence of the judge shall strike off from such special list by ballot the names singly until the number be reduced to eighteen which number shall form the jury panel for the trial. C. O. 28, s. 9.

Precept to issue

**10.** As soon as the panel is formed in the manner hereinbefore prescribed the clerk shall issue out of court and deliver to the party applying for it in civil cases but to the sheriff in criminal cases a precept in form A in the schedule to this Ordinance directed to and commanding the sheriff to summon the persons whose names comprise the panel. C. O. 28, s. 10.

Summoning of jury

**11.** Upon receipt of the precept the sheriff shall execute the same by summoning the persons named therein by delivering to each person or leaving with a grown up member of his household, a reasonable time before the date of the trial, a written or printed summons in form B in the schedule to this Ordinance. C. O. 28, s. 11.

Return of precept

**12.** The sheriff on or before the opening of the court at the time set for the trial shall deliver to the court the precept with a return showing his action thereon. C. O. 28, s. 12.

Omission to obey summons

**13.** Every person summoned to serve as a juror who fails to obey the summons served on him or to answer to his name when called by the clerk shall be liable to a fine not exceeding $50 which may be immediately imposed by the court:

Penalty

Provided that the court may for good cause shown reduce or entirely remit such penalty. C. O. 28, s. 13.

Enforcement of penalty

**14.** All fines for nonattendance of jurors shall if not paid forthwith be levied together with the sheriff's costs and expenses as authorised for the execution of civil process by warrant of distress issued by the clerk sealed with the seal of the court directed to the sheriff and sale of goods of the party fined as provided for executing writs of execution and in default of sufficient goods and chattels such person may be imprisoned for a term not exceeding thirty days. C.O. 28, s. 14.

Names of persons summoned on separate cards

**15.** The name of every person included in the precept to the sheriff and summoned by him as hereinbefore provided with his residence and occupation shall by the sheriff be written distinctly upon a piece of card or paper three inches in length by one and one-half inches in width and the pieces of card or paper so written upon shall be placed in a glass or box to be by him returned to the clerk of the court with the return of the precept. C.O. 28, s. 15.

Selection of jury

**16.** When the case in which the precept has issued is brought on to be tried the clerk shall in open court cause the cards or papers to be mixed up in the said glass or box and then draw out so many of the said cards or papers one after another until six jurors are drawn who after all just causes for challenging allowed appear as fair and indifferent and who shall be the jury to try the issues set for trial by jury in the case. C. O. 28, s. 16.

When special jury required

**17.** When upon the application of either party to a civil cause the judge orders the matters in issue to be tried by a special jury the clerk under the direction of the judge shall select from the last revised list of jurors of the district the names of twenty-four persons who from their station and intelligence are considered by the judge qualified to try the issues and the panel shall be struck from such list and jurors summoned as hereinbefore provided in the case of a common jury. C. O. 28, s. 17.

Costs of special jury

**18.** The party who shall apply for a special jury shall not only pay the fees for striking such jury but shall also pay all expenses occasioned by the trial of the cause by such special jury and shall not have any other allowance for the same upon taxation of costs than such party would be entitled to in case the cause had been tried by a common jury unless otherwise ordered by the judge. C. O. 28, s. 18.

Sheriff's remuneration

**19.** There shall be payable to the sheriff upon the certificate of a judge out of the general revenue fund of the Territories the sum of five cents for every name added to the list of jurors in his district. C. O. 28, s. 19.

Commencement of Ordinance

**20.** This Ordinance shall come into force and take effect immediately from and after the repeal of sections 71 and 88 of *The North-West Territories Act.* C. O. 28, s. 20.

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## SCHEDULE.

### FORM A.

### PRECEPT.

In the Supreme Court of the North-West Territories,
Judicial District of

VICTORIA by the Grace of GOD of the United Kingdom of Great Britain and Ireland, QUEEN, Defender of the Faith, etc., etc.

To , the sheriff of the Judicial District of

You are commanded that you cause to come before this court on the day of A.D. 1 , at ten o'clock in the forenoon at in the in the said Territories for the trial of the good and lawful men of the said Territories whose names and places of abode are given in the schedule hereto annexed.

Given under my hand and the seal of the said court at in the said Territories this day of A.D. 1 .

*Clerk.*

SCHEDULE REFERRED TO IN THE ANNEXED PRECEPT IN THE CAUSE OF AGAINST

| Name of juror | Residence | When and where served |
|---|---|---|
| | | |

---

## FORM B.

### NORTH-WEST TERRITORIES.

### SUMMONS FOR JURORS.

vs.

To .

By virtue of a precept dated 1 , to me directed you are hereby required and commanded to be and appear at on , the day of next at the hour of o'clock in the noon to serve as a juror in the above named matter.

Herein fail not at your peril.

Sheriff's office
1 } *Sheriff.*

# JUSTICES OF PEACE.

*See*, MAGISTRATES.

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# KEEPERS OF HOTELS AND BOARDING HOUSES.

## An Ordinance respecting Hotel and Boarding House Keepers.

C.O. 1898, c. 56
15 March 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Hotelkeepers' Ordinance."* C. O. 56, s. 1. **Short title**

### LIEN OF HOTEL OR BOARDING HOUSE KEEPER.

**Right of detention and sale of goods of lodger indebted for board, etc.**

**2.** Any hotel, boarding or lodging house keeper may seize and detain in his hotel, house, or on his premises, and before the same shall have been removed therefrom, the trunks and personal property of any person who is indebted to him for board and lodging and shall be responsible for the safe keeping of the same; and in addition to all remedies provided by law he shall have the right in case the charges remain unpaid for three months after the seizure thereof to sell by public auction the baggage and property of such guest, boarder or lodger, so seized, on posting and keeping posted during the period of one week on the outside of the door of such hotel, boarding or lodging house a notice of such intended sale, stating the name of the guest, boarder or lodger, the amount of his indebtedness, a description of the baggage or other property to be sold, the time and place of sale, and the name of the auctioneer, and after such sale, such inn, hotel, boarding or lodging house keeper may apply the proceeds of such sale in payment of the amount due to him as aforesaid and the costs of such advertising and sale: and he shall pay over the surplus if any to the person entitled thereto on application being made by him therefor; and in case application therefor be not forthwith made he shall immediately pay the same to the Territorial treasurer, to be kept by him for such owner for one year; after which time if such owner has not previously claimed the amount so kept the same shall form part of the general revenue fund of the Territories. C. O. 56, s. 2.

**Disposition of surplus**

No lien for liquors

**3.** No hotel, boarding or lodging house keeper shall have a right to detain the trunks or personal property of any one, or to have a lien thereon, for wines or spirituous or fermented liquors supplied to him or to any one else by his order C. O. 56, s. 3.

### LIABILITY OF HOTEL KEEPER.

Limitation of liability of hotelkeeper in certain cases

**4.** No hotel keeper shall after the coming into force of this Ordinance be liable to make good to any guest of such hotel keeper any loss or injury to goods or property brought to his hotel (not being a horse or other live animal or any gear appertaining thereto or any carriage), to a greater amount than $200 except in the following cases, that is to say:

1. When such goods or property shall have been stolen, lost or injured through the default or neglect of such hotel keeper or any servant in his employ;

2. When such goods or property shall have been deposited expressly for safe custody with such hotel keeper:

Provided always, that in case of such deposit it shall be lawful for such hotel keeper if he thinks fit, to require as a condition to his liability that such goods or property shall be deposited in a box or other receptacle fastened and sealed by the person depositing the same. C. O. 56, s. 4.

Refusal of hotelkeeper to receive goods into safe custody

**5.** If any hotel keeper shall refuse to receive for safe custody as before mentioned any goods or property of his guest, or if any such guest shall through any default of the hotel keeper be unable to deposit such goods or property as aforesaid, the hotel keeper shall not be entitled to the benefit of this Ordinance in respect of such goods or property. C. O. 56, s. 5.

### ORDINANCE TO BE POSTED.

This Ordinance to be posted in hotels

**6.** Every hotel keeper shall cause to be kept conspicuously posted in the office and public rooms in his hotel a copy of this Ordinance printed or plainly written, and he shall be entitled to the benefits of this Ordinance in respect of such goods or property only as shall be brought to his hotel while such copy shall be posted as aforesaid. C. O. 56, s. 6.

## LAND.

*See* APPENDIX OF DOMINION STATUTES.
CONFIRMATION OF TAX SALES.
EXPROPRIATION.
LANDLORD AND TENANT.
LIENS ON LAND FOR TAXES.
LIMITATION OF ACTIONS.
REAL PROPERTY.
RELIGIOUS CONGREGATIONS.
TAX SALES OF LAND.
TAXES A LIEN.
TENANCY IN COMMON.

## LANDLORD AND TENANT.

*See* DISTRESS FOR RENT.
EXTRAJUDICIAL SEIZURES.
JUDICATURE (OVERHOLDING TENANT.)

## LAND TITLES.

*See* APPENDIX OF DOMINION STATUTES.

## LAW SOCIETY.

*See* LEGAL PROFESSION.

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## LEGAL PROFESSION.

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|---|---|
| *Principal Ordinance revised* | *C.O. 1898, c, 51, amended* |
| *Amending Ordinance* | *1899, c. 8.* |
| *Amending Ordinance* | *1903, sess. 2, c. 14.* |
| *Amending Ordinance* | *1904, c. 4.* |

### An Ordinance respecting the Legal Profession and the Law Society of the Territories. C.O. 1898, c. 51 15 March 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

**1.** This Ordinance may be cited as *"The Legal Profession Ordinance."* C. O. 51, s. 1. Short title

INCORPORATION OF LAW SOCIETY.

**2.** "The Law Society of the North-West Territories" shall continue to be incorporated under that name and style and by that name shall have perpetual succession and may sue and be Incorporation sued in any court and have and use a common seal and be capable by law to make and receive all deeds, conveyances, assignments and contracts necessary to carry into effect the provisions of this Ordinance and to promote the objects and designs of the said corporation. C. O. 51, s. 2.

### MEMBERSHIP.

Members

**3.** The following persons shall compose and be the members of the said corporation that is to say: All persons who on the fifteenth day of January, 1899, were enrolled as advocates of the Territories under any Ordinance in that behalf and all others who have since that date or who shall hereafter become entitled to practise as such advocates. C. O. 51, s. 3.

### ROLL OF ADVOCATES.

Roll of advocates

**4.** The roll of advocates under the Ordinances respecting the legal profession in force prior to the fifteenth day of January, 1899, with the addition thereto of the names of such persons who have since or who may hereafter become members of the society shall constitute the roll of membership of the society and such roll shall be kept in the custody of the secretary. C. O. 51, s. 4.

### ADMISSION OF ADVOCATES.

Persons entitled to practise and be enrolled

**5.** In addition to the persons already enrolled as advocates as aforesaid the following persons and no others shall be admitted to act as advocates in the Territories and to practise at the bar in the supreme or any other court of civil jurisdiction in the Territories or to advise *or do or perform any work or service* for fee or reward in matters pertaining to the law or sue out any writ or process or commence, carry on, solicit or defend any action or proceeding in any such court:

1. Any British subject of the age of twenty-one years who, having been entered and admitted as a student of law in the law society of the Territories has been standing on the books thereof for five consecutive years or for three consecutive years if a graduate in arts or law of a recognised university in the United Kingdom or in Canada or a graduate of the Royal Military College of Canada, has conformed himself to the rules of the said society and been enrolled as a member thereof:

Provided always that any student of law or clerk under articles under any Ordinance respecting the legal profession whose articles were duly entered into prior to the *nineteenth* day of September, 1898, shall on application be entered and admitted to the law society of the Territories as a student of law under articles and upon completing the term of his service as prescribed by the Ordinance under which he was articled and otherwise conforming to the rules of the law society shall be admitted to practise as an advocate:

Provided further that the law society shall not require any such student or clerk mentioned in the next preceding proviso to pass any further examination or produce any evidence of further educational attainment or pay any greater fees than he would have been required to pass, produce or pay under Ordinance No. 9 of 1895;

2. Any person who has been duly called to the bar of England, Scotland, Ireland or any of the provinces of Canada or who has been admitted to practise as an attorney, advocate or solicitor in any of her Majesty's superior courts of law therein who produces sufficient evidence of such call or admission and testimonials of good character and of good standing in the law society of the country or province of which he is a barrister, attorney, advocate or solictior to the satisfaction of the benchers of the law society of the Territories and who having complied with such rules as the law society of the Territories or the benchers thereof may make under the provisions of this Ordinance has been enrolled as a member of the said law society of the Territories:

Provided that if an advocate of the Territories on applying for call or admission as a barrister, solicitor, advocate or attorney in England, Scotland, Ireland or any such province would or might be required to pass any examination before such call or admission it shall be competent for the law society of the Territories or the benchers thereof to impose a like requirement on the application of any person from such country or province for admission as an advocate of the Territories:

Provided further that if an advocate of the Territories on applying for call or admission as in the preceding proviso mentioned would be required to reside in or serve under articles in any such country or province for any certain period before call or admission the law society of the Territories may require prior residence or service in the Territories for the like period on the part of any person from such country or province applying for admission as an advocate. C. O. 51, s. 5; 1899, c. 8, ss. 1 and 2; 1904, c. 4, s. 1.

ADVOCATE'S OATH.

**Advocate's oath**

**6.** Every person before being admitted as an advocate shall make and subscribe the oath or affirmation following:

I, *A.B.*, do solemnly swear (*or* affirm) that I will well and truly and honestly demean myself as an advocate in the North-West Territories according to the best of my knowledge, skill and ability. So help me God. C. O. 51, s. 6.

### VISITORS OF SOCIETY.

Visitors

**7.** The judges of the supreme court of the North-West Territories shall be visitors of the society. C. O. 51, s. 7.

### BENCHERS.

Benchers

**8.** The said society shall be governed by the benchers thereof who (exclusive of *ex officio* members) shall consist of nine of the members of the society at least one of whom shall be chosen from the eligible persons resident in each judicial district of the Territories. C. O. 51, s. 8.

*Ex officio* benchers

**9.** The Attorney General of Canada for the time being, the Attorney General of the Territories for the time being and all advocates of the Territories who have at any time held the office of attorney general of the Territories and any retired judge of the supreme court shall respectively *ex officio* be benchers of the society. C. O. 51, s. 9.

Benchers to hold office for three years

**10.** *The elected benchers shall hold office for three years from the first day of January following their election or until their successors are appointed.* 1900, c. 14, s. 1.

Election to be on first Monday of November

**11.** *Elections of benchers shall be held on the first Monday of November in the year 1900 and on the first Monday of November every third year thereafter.* 1900, c. 14, s. 2.

Qualification of voters

**12.** Each duly enrolled advocate of the Territories resident therein and not otherwise ineligible may at an election of benchers vote for nine persons one of whom at least shall be chosen from the members in each judicial district respectively. C. O. 51, s. 12.

List of voters to be published

**13.** At least six weeks prior to the holding of the election the secretary shall make out a list of the advocates who are entitled to vote at such election and a copy of such list shall be transmitted by post by the secretary to each clerk and deputy clerk of the supreme court and such clerk or deputy clerk shall forthwith on the receipt thereof post such list in a conspicuous place in his office. C. O. 51, s. 13.

**14.** In case any advocate complains to the secretary at least one month before the election, of the improper omission or insertion of any name on the list it shall be the duty of the secretary forthwith to examine into the complaint and rectify such error if any there be; and in case any person is dissatisfied with the decision of the secretary he may within one week thereafter appeal to a judge of the supreme court who shall summarily try and decide the questions involved and the list shall remain or be altered in accordance with the decision of the judge. C. O. 51, s. 14. Correction of list

**15.** No person whose name is not inserted in the said list shall be entitled to vote at such election. C. O. 51, s. 15. Voters must be on list

**16.** In the event of any elector placing more than nine names on his voting paper it shall not be counted. C. O. 51, s. 16. Void votes

**17.** No person shall be eligible as a bencher at any election who is not an advocate and qualified to vote at such election. C. O. 51, s. 17. Qualification of benchers

**18.** At all elections retiring benchers shall be eligible for re-election. C. O. 51, s. 18. Retiring benchers eligible

**19.** No person shall be entitled to vote unless all his fees to the society have been paid. C. O. 51, s. 19. Voter must have paid fees

**20.** The votes at each election shall be given by closed voting papers in form A in the scehdule to this Ordinance (or to the like effect) being mailed by registered post to the secretary or delivered to him at his office so as to be in his hands on the day of election before the hour prescribed for opening the voting papers. C. O. 51, s. 20. Manner of voting

**21.** The said voting papers shall at the hour of eleven o'clock in the forenoon on the day of election be opened by the secretary in the presence of any of the persons entitled to vote who may attend; and the secretary shall then scrutinise and count the votes and keep a record thereof. C. O. 51, s. 21. Counting votes

**22.** The following members shall be declared by the secretary to be elected benchers: Persons to be declared elected

1. The member receiving the highest number of the votes cast for the members residing in the judicial district wherein he resides.

2. Such of the persons, not included in the above, receiving the highest number of the total votes cast at the election as may be necessary to complete the number of benchers to be elected. C. O. 51, s. 22.

Equality of votes

**23.** In case of an equality of votes between two or more persons which leaves the election of one or more of such benchers undecided then the secretary shall forthwith put into a ballot box a number of papers equal to the number of the candidates who have an equality of votes, the said papers each having the name of a candidate written thereon being one paper for each candidate. The papers shall be so folded that the name thereon shall be inside and not distinguishable without the papers being opened. The papers shall be mixed together in the box and the secretary shall draw by chance from such ballot box in presence of such persons as may be present one or more of such papers sufficient to make up the required number and the persons whose names are upon such papers so drawn shall be such benchers. C. O. 51, s. 23.

Notice of election

**24.** The secretary shall forthwith after the election notify the benchers elect of their election and cause the names to be published in the gazette. C. O. 51, s. 24.

Rules for elections

**25.** The benchers may make such regulations as they consider expedient not contrary to the provisions of this Ordinance for regulating the procedure as to election of benchers. C. O. 51, s. 25.

Voting papers to be preserved

**26.** The voting papers belonging to any election shall not be destroyed until after all petitions in respect to such election have been decided but the same shall together with all other papers in conection with the election be retained by the secretary. C. O. 51, s. 26.

Disputed elections

**27.** In the event of any dispute as to the election of benchers the same may be decided in a summary way by any judge of the supreme court upon petition presented within ten days from the declaration of the result. The decision of the judge shall be final and the costs of the petition shall be in his discretion. The judge shall in and about such petition have the like powers as in an ordinary cause in the supreme court. C. O. 51, s. 27.

False voting

**28.** No person shall sign the name of any other person to any voting paper under this Ordinance or alter or add to or falsify or fill up any blank in any voting paper signed by another person or deliver or cause to be delivered to the secretary any such false voting paper or any voting paper which has been added to or falsified or in which any blank has been filled up after the same was signed. C. O. 51, s. 28.

**Provision for absence of secretary**

**29.** In the event of there being no secretary (for the time being) of the law society at the time at which any election under this Ordinance is to be held or in the event of such secretary being unable from illness or other unavoidable cause to act at such election then and in such case the president for the time being of the law society and if there be no president then the attorney general of the Territories shall appoint under his hand some other person to act as such secretary and such person so appointed shall perform all duties of such secretary prescribed by this Ordinance. C. O. 51, s. 29.

**Vacancies in benchers**

**30.** In case of failure in any instance to elect the requisite number of benchers according to the provisions of this Ordinance or in case of any vacancy caused by the death or resignation of any bencher or by any other cause the remaining or continuing benchers may appoint to the vacant place or places any person or persons duly qualified under the provisions of this Ordinance to be elected bencher or benchers and the person or persons so appointed shall hold office for the residue of the period for which the other benchers have been elected:

Provided that any such vacancy shall be filled from among the persons eligible resident in the judicial district in which the bencher whose place has become vacant resided. C. O. 51, s. 30.

### OFFICERS OF SOCIETY.

**Officers of society**

**31.** The officers of the society shall consist of a president, vice president, secretary and treasurer. C. O. 51, s. 31.

### BENCHERS' POWERS.

**Rules and bylaws**

**32.** The benchers may from time to time make rules and bylaws:

1. For the government of the said society and other purposes connected therewith:

2. For regulating and prescribing the qualifications, manner of study and examinations of students of law and the requirements preliminary to their being admitted as advocates and for regulating the admission and enrolment of advocates;

3. For fixing the fees payable to the society for admission and enrolment of students of law and advocates respectively:

Provided that the fee for admission and enrolment as an advocate payable by any student at law in the Territories shall not exceed $100;

4. For fixing the fees payable annually by each advocate and for other fees incidental to the society;

5. For the striking off the roll and suspension from practice of any advocate for nonpayment of fees due to the society and for the reinstatement of such advocate upon such terms as the benchers may see fit;

6. For the reporting of legal decisions. C. O. 51, s. 32.

FUNDS OF SOCIETY.

Fees, etc.

**33.** All fees, dues and subscriptions payable under the provisions of this Ordinance shall be the property of the society and shall be paid to the treasurer of the society. C. O. 51, s. 33.

Custody of funds

**34.** The funds of the society shall be deposited by the treasurer to the credit of the society in a chartered bank and shall be withdrawn only by cheque signed by the treasurer and countersigned by the president of the society or (in his absence from the Territories) by one of the benchers. C. O. 51, s. 34.

Expenditure of society

**35.** The funds of the society shall be disbursed and appropriated under the direction of the benchers in payment of the necessary expenses of the society. C. O. 51, s. 35.

Purchase of libraries

**36.** Subject to the approval of the visitors of the society the benchers may expend such portion of the funds of the society as are not required for the ordinary purposes thereof in the establishment of or addition to law libraries for the general use of the members at such points in the Territories as they may deem proper.

Borrowing powers

(2) *The benchers may also pass bylaws from time to time providing for the borrowing of money at a rate of interest not exceeding six per cent. per annum for the purpose of the establishment of or addition to law libraries for the general use of the members at such points in the Territories as they may deem proper; and for the issuing of debentures (with coupons attached for the instalments payable thereunder) for the amount proposed to be borrowed with interest as aforesaid:*

*Provided that the amounts borrowed under the provisions of this subsection shall at no time exceed in the aggregate the sum of $15,000 and that the same shall be made repayable in consecutive annual instalments, either in such manner that an equal amount of the principal together with the total interest on the principal or balance of principal remaining due shall be payable in each year for the period during which the debenture is to run or in such manner that the aggregate amount payable for principal and interest in any year shall be equal (as nearly as may be) to what is payable for principal and interest during each of the other years of such period:*

*And provided that the period during which the debenture is to run shall not exceed twenty years from the date of the debenture.*

(3) *No bylaw passed under the provisions of the next preceding subsection shall be valid unless and until it shall have been assented to in writing by a majority of the visitors of the society for the time being; and such assent shall be conclusive evidence that all the formalities necessary to the passing of such bylaw have been complied with; and that the loan proposed to be made under the authority thereof is one which the society may lawfully make.*

(4) *Every debenture issued under the foregoing provisions shall constitute a specific charge upon all the law libraries owned by the society at the time of the issue thereof or thereafter acquired and upon the gross annual income of the society received from members of the society for annual certificates.*

(5) *Such debentures shall be under the common seal of the society and shall be signed by the president or vice president and the treasurer of the society.*

(6) *No purchaser of any such debentures shall be bound to inquire as to the application of the money borrowed thereon.*

(7) *Any municipality may invest by the purchase of any of such debentures any part of the moneys held by it to the credit of a sinking fund account which it can lawfully invest by the purchase of Dominion Government securities, school or municipal debentures; and any trustee, executor or administrator may invest by the purchase of any such debentures any part of the moneys in his hands which he can otherwise lawfully invest.* C. O. 51, s. 36 and 1901, c. 18, s. 1.

## DISCIPLINARY.

**Advocates officers of court**

**37.** All advocates shall be officers of the supreme and other civil courts of the Territories; and the supreme court and any judge thereof shall possess and may exercise the same powers and jurisdiction over and in respect of such advocates as at the time of the passing hereof is possessed by the supreme court of judicature in England over and in respect of solicitors of the said last mentioned court. C. O. 51, s. 37.

**Assisting unauthorised persons to practise**

**38.** No advocate shall wilfully and knowingly act as the professional agent of any person not duly enrolled and qualified to act as an advocate or suffer his name to be used in any such agency on account of or for the profit of an unqualified person or send any process to such person or do any other act to enable such person to practise in any respect as an advocate, knowing him not to be duly qualified. C. O. 51, s. 38.

**Nonresident not to practise in name of resident advocate**

**38a.** *No advocate not being a resident of the Territories shall ask for, demand, receive or take directly or indirectly any moneys by way of advocates' fees, counsel fees, solicitors' fees, notarial fees, conveyancers' fees, agency fees, division of fees, commission, previous or subsequent allowance or deduction or otherwise for any work done or services rendered by or in the name of any advocate resident in the Territories; and for the purposes of this section the act of any partner or employee of any advocate not being a resident of the Territories shall be deemed to be the act of such advocate.* 1904, c. 4, s. 2.

**Suspension and disqualification of advocates**

**39.** If upon application at the instance of the benchers or any person concerned and supported by affidavit made to a judge it shall *prima facie* appear that an advocate has been guilty of professional misconduct or of conduct unbecoming an advocate or for default by him in payment of moneys received by him as an advocate or has been guilty of such misconduct as would in England be sufficient to bring a solicitor under the punitive powers of the supreme court of judicature or has been guilty of any breach of the provisions of this Ordinance or of any rule or bylaw passed under the provisions hereof the judge shall by summons call upon such advocate to answer the facts and upon the return of the summons hear the complainant and advocate and any evidence adduced by them; and if the judge finds the complaint well founded he may direct that such advocate be suspended and disqualified from practising as such until the end of the then next sittings of the court *en banc*; and in the event of making such order shall report the evidence and proceedings on such application and his judgment thereon to the court *en banc* at such sittings and the court *en banc* shall thereupon consider such evidence and proceedings and may hear the parties or their counsel in the same manner as if such application had originally been made to the court *en banc* and may order that the name of such advocate be struck off the roll of advocates or may suspend such advocate from practising for such period as may be considered proper:

Provided that the judge instead of directing the suspension and disqualification to practise of such advocate as aforesaid may refer the matter to be dealt with by the court *en banc* at its next sitting. C. O. 51, s. 39.

Notice of proceedings against advocates

**40.** In case either a report or reference is made to the court *en banc* under the preceding section or in case an application is made to the court *en banc* to strike an advocate off the roll or to suspend him from practising, such court or a judge (before such report, reference or application to strike off is heard or dealt with) may order that notice of the proceedings be given by the applicant to the secretary of the society and to such other person or persons as the court or judge may think proper; and the person or persons so notified may appear in person or by advocate on such application. C. O. 51, s. 40.

Notice of suspension or striking off roll

**41.** Whenever any advocate is struck off the roll of advocates or suspended from practising the registrar of the supreme court or the clerk of the court (if the suspension is by a single judge) shall certify the same under his hand and the seal of the court to the secretary of the society who shall file such certificate and shall make a note opposite the name of such person on the said roll of his having been struck off the same or suspended (as the case may be) and in case of suspension of the time of such suspension. C. O. 51, s. 41.

Advocates convicted of felony

**41*a*.** *Any advocate who has been convicted of a felony may be struck off the roll of advocates or suspended from practice by resolution of the benchers.* 1904, c. 4, s. 3.

Effect of suspension, etc.

**42.** Upon an advocate being struck off the roll as aforesaid all his rights and privileges as an advocate shall cease and determine or in case he is suspended he shall during the period of his suspension possess no rights or privileges as an advocate and notice of his being struck off the roll or suspended shall forthwith be given by the secretary to the judges of the supreme court. C. O. 51, s. 42.

Reinstatement of advocates

**43.** The supreme court *en banc* may on application made for that purpose and when in the opinion of such court the subsequent conduct of the advocate and the facts warrant it order the name of any advocate struck off the roll to be restored thereto upon such terms as to the payment of money or otherwise as the court may direct; and in such case the registrar shall certify the same under his hand and the seal of the court to the secretary of the society who shall file such certificate and make a note opposite the name of such person on the said roll of his having been restored thereto.

Notice of application for reinstatement

(2) Notice of such application shall be given to the secretary of the society and such other person or persons as the court or a judge on *ex parte* application may direct and the persons so notified may in person or by advocate appear and oppose or consent to such application:

Provided that before being entitled to be restored to the roll hereunder such person whose name is sought to be restored shall pay all arrears of fees due by him to the society including the fees for the period which has elapsed since he was struck off the roll. C. O. 51, s. 43.

Student guilty of improper conduct

**44.** Whenever a person being a student serving under articles shall be found by the benchers after due inquiry to have been either before or after the coming into force of this Ordinance guilty of professional misconduct or conduct unbecoming a student of law *or of having contravened any of the provisions either of this Ordinance or of any amending Ordinance* it shall be lawful for the benchers to strike the name of such student from the books of the society; but any decision of the benchers to strike off the name of any student shall be subject to appeal to a judge of the supreme court. C. O. 51, s. 44, and 1899, c. 8, s. 3.

Unauthorised persons practising

**45.** In case any person (unless himself a plaintiff or defendant in the proceeding) commences, prosecutes or defends in his own name or that of any other person any action or proceeding in any court of civil jurisdiction in the Territories or acts as counsel or advocate in any such action or proceeding without being enrolled as aforesaid he shall be incapable of recovering any fee, reward or disbursement on account thereof; and such person shall be deemed guilty of a contempt of the court in which such proceeding has been commenced, carried on or defended and punished accordingly and the party offending may be proceeded against for such contempt before the supreme court *en banc* or any judge thereof sitting in chambers. C. O. 51, s. 45.

Institution of proceedings by benchers

**46.** The benchers may institute or authorise the institution of any proceedings under this Ordinance for any breach of its provisions. C. O. 51, s. 46.

## DELIVERY AND TAXATION OF BILLS OF COSTS.

**47.** No advocate nor any executor, administrator or assignee of any advocate shall commence or maintain any action or suit for the recovery of any fees, charges or disbursements for any business done by an advocate as such until the expiration of one month after such advocate, his executor, administrator or assignee shall have delivered unto the party to be charged therewith or sent by the post or left for him at his house, office of business or last known place of abode, a bill of such fees, charges and disbursements, which bill shall either be subscribed with the proper hand of such advocate or of his executor, administrator or assignee (or in case of a partnership by one of the partners either with his own name or with the name or style of such partnership) or be inclosed in or accompanied by a letter subscribed in like manner referring to such bill. C. O. 51, s. 47.

Delivery of advocate's bill before action

**48.** Upon the application of the party chargeable by such bill within such month the supreme court or a judge thereof shall (without money being brought into court) refer the bill and the demand thereon to be taxed by the proper officer of the court for the judicial district in which any of the business charged for in the bill was done and the court or judge making such reference shall restrain the bringing any action for such demand pending the reference. C. O. 51, s. 48.

Taxation of bill within one month

**49.** In case no application is made within such month then the court or judge upon the application of either party may order a reference with such directions and conditions as he may deem proper; and may upon such terms as may be thought just restrain any action for such demand pending the reference. C. O. 51, s. 49.

Taxation after month

**50.** No such reference shall be directed upon application made by the party chargeable with such bill after a judgment has been obtained or after twelve months from the time such bill was delivered, sent or left as aforesaid except under special circumstances to be proved to the satisfaction of the court or judge to whom the application for the reference is made. C. O. 51, s. 50.

Taxation after one year or after judgment

**51.** In case either party to such reference having due notice refuses or neglects to attend the taxation the officer to whom the reference is made may tax the bill *ex parte;* and in case the reference is made upon the application of either party and the

*Ex parte* taxation

party chargeable with the bill attends the taxation the costs of the reference shall, except as hereinafter provided for, be paid according to the event of the taxation, that is to say, if a sixth part is taxed off the costs shall be paid by the party by whom or on whose behalf such bill was delivered and if less than a sixth part is taxed off then by the party chargeable with such bill if he applied for or attended the taxation. C. O. 51, s. 51.

Order for reference

**52.** Every order for such reference shall direct the officer to whom the reference is made to tax the costs of the reference and to certify what upon the reference he finds to be due to or from either party in respect of such bill and of the costs of the reference if payable. C. O. 51, s. 52.

Special circumstances

**53.** Such officer may certify specially any circumstances relating to the bill or taxation and the court or judge may thereupon make such order as may be deemed right respecting the payment of the costs of taxation. C. O. 51, s. 53.

Costs

**54.** In case the reference is made when the same is not authorised except under special circumstances as hereinbefore provided the court or judge in making the same may give any special directions relative to the costs of the reference. C. O. 51, s. 54.

Delivery of bill and documents

**55.** Where no bill has been delivered, sent or left as aforesaid and where the bill if delivered, sent or left might have been referred as aforesaid the supreme court or a judge thereof may order the delivery of a bill and may also order the delivery up of deeds or papers in the possession, custody or power of the advocate, his assignee or representatives in the same manner as has heretofore been done in cases where any such business had been transacted in the said court. C. O. 51, s. 55.

Proof of delivery of bill

**56.** In proving a compliance with this Ordinance it shall not be necessary in the first instance to prove the contents of the bill delivered, sent or left but it shall be sufficient to prove that a bill of fees, charges or disbursements subscribed in the manner aforesaid or inclosed in or accompanied by such letter as aforesaid was delivered, sent or left in manner aforesaid; but the other party may show that the bill so delivered, sent or left was not such a bill as constituted a *bona fide* compliance with this Ordinance. C. O. 51, s. 56.

Immediate action on advocate's bill

**57.** A judge of the supreme court on proof to his satisfaction that there is probable cause for believing that the party chargeable is about to quit the Territories may authorise an advocate to commence an action for the recovery of his fees, charges or disbursements against the party chargeable therewith although one month has not expired since the delivery of a bill as aforesaid. C. O. 51, s. 57.

**58.** Where any person not being chargeable as the principal party is liable to pay or has paid any bill either to the advocate, his assignee or representative or to the principal party chargeable therewith, the person so paying, his assignee or representative may make the like application for a reference thereof to taxation as the party chargeable therewith might himself have made and in like manner; and the same proceedings shall be had thereupon as if the application had been made by the party so chargeable. C. O. 51, s. 58. **Taxation on application of person not principal**

**59.** In case such application is made when under the provisions hereinbefore contained a reference is not authorised to be made except under special circumstances the court or judge to whom the application is made may take into consideration any additional special circumstances applicable to the person making it although such circumstances might not be applicable to the party chargeable with the bill if he was the party making the application. C. O. 51, s. 59. **Special circumstances**

**60.** For the purpose of such reference upon the application of the person not being the party chargeable or of a party interested as aforesaid the court or judge may order the advocate, his assignee or representative to deliver to the party making the application a copy of the bill on payment of the costs of the copy. C. O. 51, s. 60. **Delivery of bill**

**61.** No bill previously taxed shall be again referred unless under the special circumstances of the case the court or judge to whom application is made thinks fit to direct a retaxation thereof. C. O. 51, s. 61. **Retaxation**

**62.** The payment of any such bill as aforesaid shall in no case preclude the court or judge to whom application is made from referring such bill for taxation if the application is made within twelve months after payment and if special circumstances in the case in the opinion of the court or judge appear to require the same, upon such terms and subject to such directions as to the court or judge seem right. C. O. 51, s. 62. **Taxation after payment**

**63.** All applications made to refer any bill to be taxed or for the delivery of a bill or for the delivering up of deeds, **Style of proceeding**

Enforcing payment

documents and papers shall be made "In the matter of (*such advocate*);" and upon the taxation of any such bill the certificate of the officer by whom the bill is taxed shall unless set aside or altered by order of a judge or by decree or order of court be final and conclusive as to the amount thereof; and payment of the amount certified to be due and directed to be paid may be enforced according to the practice of the said court. C. O. 51, s. 63.

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## SCHEDULE.

### FORM A.

### Voting Paper.

LAW SOCIETY OF THE NORTH-WEST TERRITORIES.

Election of benchers, 1

I, of in the North-West Territories, advocate, do hereby declare:

1. That the signature hereto is my proper handwriting;

2. That I now reside at ;

3. That I vote for the following persons as benchers of the Law Society:

*A.B.*, of the
*C.D.*, of the
*E.F.*, of the
*G.H.*, of the
*J.K.*, of the
*L.M.*, of the
*N.O.*, of the
*P.Q.*, of the
*R.S.*, of the

4. That I have signed no other voting paper at this election;

5. That this voting paper was executed on the day of the date thereof.

Witness my hand this day of A.D.

C. O. 51.

# LEGAL PROFESSION

## AMENDMENT.

1899 c. 8. 29 April 1899

### An Ordinance to amend Chapter 51 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Legal Profession and the Law Society of the Territories."

[*Assented to April 29, 1899.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1. 2.** and **3.** * * * * * * * * * *

Benchers may grant status as student in certain cases

**4.** The benchers of the society may grant to any person (possesed of educational qualifications equal to those required of a student of law in the Territories on his enrolment as such) who has been actually engaged in the study of law * * * in any part of her Majesty's dominions, a status as a student of law in the Territories but not greater than his status in the country in which he had previously been a student of law and on such conditions as to undergoing examinations as the benchers may in each case decide. 1899, c. 8, s. 4, amended by 1904, c. 4, s. 5.

Falsely holding out as advocate

**5.** Any person who wilfully or falsely pretends or holds himself out to be an advocate of the Territories duly enrolled as aforesaid, or takes, assumes or uses any name, title, addition or description other than such as he actually possesses and is legally entitled to, or implying or calculated to lead people to infer that he is an advocate so duly enrolled, or that he is recognised by law as an advocate or lawyer qualified and entitled to practise or do business as such within the Territories, or in any way publishes or advertises himself as such, shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding $100. 1899, c. 8, s. 5.

Onus of proof in prosecutions

**6.** In any prosecution under the said Ordinance or any amending Ordinance the burden of proof as to enrolment and qualification under the said Ordinance shall be upon the person accused. 1899, c. 8, s. 6.

Disposition of penalties

**7.** All penalties imposed and recovered under the said Ordinance or any amending Ordinance shall belong to the law society and form part of the funds thereof. 1899, c. 8, s. 7.

# LEGAL PROFESSION.

## AMENDMENT.

1903 sess. 2 c. 14 21 Nov. 1903 An Ordinance to amend Chapter 51 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Legal Profession and the Law Society of the Territories."

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Admission of advocates in special cases **1.** The Law Society may make rules and regulations for the admission as advocates of persons other than those mentioned in section 5 of *The Legal Profession Ordinance* provided that no such person shall be admitted unless he is a British subject and has been admitted to practice as a legal practitioner in some province, state or country and has passed such examination, if any, and served such time, if any, and paid such fees as the Law Society may prescribe.

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# LEGAL PROFESSION.

## AMENDMENT.

1904 c. 4 8 Oct. 1904 An Ordinance to amend Chapter 51 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Legal Profession and the Law Society of the Territories."

[*Assented to October 8, 1904.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Subsection 1 section 5 amended **1.** Subsection 1 of section 5 of *The Legal Profession Ordinance* is hereby amended by striking out both provisos thereto:

Provided that this section shall not take effect until the first day of July, 1906.

**2.** and **3.** * * * * * * *

"Province" includes "Yukon" **4.** Wherever in the said Ordinance the word "province" occurs, it shall be taken to include the Yukon Territory.

**5.** * * * * * * * * *

# LEGISLATURE.

*See* CONTROVERTED ELECTIONS.
ELECTIONS.
LEGISLATIVE ASSEMBLY.

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# LEGISLATIVE ASSEMBLY.

*Principal Ordinance revised C.O. 1898, c. 2. amended.*
*Amending Ordinance 1903, sess. 2, c. 2.*

## An Ordinance respecting the Legislative Assembly of the Territories.

C.O. 1898 c.
15 March 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### LEGISLATURE.

**1.** * * * * * * * * *

### QUORUM.

**Quorum**

**2.** The quorum required for the transaction of business in the Legislative Assembly shall be ten, of whom the speaker may be one. C. O. 2, s. 2.

### SPEAKER AND DEPUTY SPEAKER.

**Deputy speaker**

**Powers and duties**

**3.** The Legislative Assembly may elect a deputy speaker; and whenever the speaker from illness or other cause finds it necessary to leave the chair during any part of the sitting of the House on any day he may call upon the deputy speaker (or in his absence upon any member of the House) to take the chair and act as speaker during the remainder of such day unless the speaker himself resumes the chair before the close of such sitting of that day; and the deputy speaker or member so called upon shall take the chair and act as speaker accordingly; and any Ordinance passed and every order made and thing done by the said Legislative Assembly while such deputy speaker or member is acting as speaker as aforesaid shall be valid and effectual to all intents and purposes as if done while the speaker himself was presiding in the chair. C. O. 2, s. 3.

**Absence of speaker**

**4.** Whenever the House is informed by the clerk at the table of the unavoidable absence of the speaker, the deputy speaker (if present) shall take the chair and shall perform the duties and exercise the authority of speaker in relation to all the proceedings of the House until the meeting of the House on the next sitting day and so on from day to day on the like information being given to the House until the House otherwise orders. C. O. 2, s. 4.

Absence of speaker and deputy speaker

**5.** Whenever the House is informed by the clerk at the table of the unavoidable absence of both the speaker and the deputy speaker, it shall be lawful for the said Assembly to elect a member to take the chair and act as speaker for that day. C. O. 2, s. 5.

Acts done in absence of speaker

**6.** Every Ordinance passed and every order made and thing done by the said Assembly while such deputy speaker or member is acting or presiding as speaker as aforesaid shall be as valid and effectual to all intents and purposes as if done while the speaker himself was presiding in the chair. C. O. 2, s. 6.

Votes on questions in Assembly

**7.** Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the speaker or acting speaker; and when the voices are equal (but not otherwise) the speaker or acting speaker shall have a vote. C. O. 2, s. 7.

Speaker's allowance

**8.** An allowance of $500 shall be payable to the speaker of the Legislative Assembly for each session of the Legislature. C. O. 2, s. 8.

### VACATING OF SEATS.

Resignation of members

**9.** Any member of the Legislative Assembly may vacate his seat therein in the manner herein provided:

In House

1. He may openly in his place in the Legislative Assembly declare his wish to vacate his seat as a member; and in such case the clerk of the Legislative Assembly shall record the same in the journals and the seat of such member shall be forthwith vacated; or

To speaker

2. He may deliver to the speaker a statement in writing under his hand and attested by two witnesses declaring his resignation of such seat; upon a receipt whereof by the speaker (whether during a session of the Assembly or not) the seat of such member shall become vacant. C. O. 2, s. 9.

To two members

**10.** If any member of the Legislative Assembly wishes to resign his seat (whether during or before any session or in the interval between two sessions of the Assembly) and there be then no speaker or such member be the speaker he may address and cause to be delivered to any two members of the Legislative Assembly a statement in writing under his hand attested by two witnesses declaring his resignation of such seat; and upon the receipt thereof by such two members the seat shall become vacant. C. O. 2, s. 10.

Issue of writ to fill vacancy

**11.** The speaker or such two members as the case may be upon receiving such declaration or resignation shall forthwith address his or their warrant under his or their hand and seal or hands and seals to the clerk of the Executive Council for the issue of a new writ for the election of a member in the place of the member so notifying his intention to resign and such writ shall issue accordingly. C. O. 2. s. 11.

Vacancy other than by resignation

**12.** Upon any vacancy in the representation of any electoral district created by death or in any way other than by resignation any two members of the Legislative Assembly may give notice of the vacancy to the clerk of the Executive Council and require the issue of a writ to fill the same:

Provided that in case such vacancy shall occur subsequently to a general election and before the first meeting of the Legislative Assembly thereafter such notice and requisition to the clerk of the Executive Council may be given by two members elect of the said Legislative Assembly of whose election the said clerk as such shall have had due notice; and such notice and every such notice and requisition given under this section shall be submitted forthwith after its receipt by the said clerk to the Lieutenant Governor; and upon its return by him to the said clerk indorsed as approved the necessary proceeding shall be taken in pursuance thereof as in the case of a warrant under the next preceding section. C. O. 2, s. 12.

Resignation not allowed pending election proceedings

**13.** No member elect to the Legislative Assembly shall be permitted to resign under the provisions of this Ordinance so long as any proceedings are pending under any of the provisions of *The Territories Elections Ordinance* nor until he has been finally declared elected. C. O. 2, s. 13.

Resignation not to affect proceedings

**14.** The resignation of a member shall in no way affect the conduct or result of any proceedings taken under the provisions of any Ordinance of the Territories respecting controverted elections. C. O. 2, s. 14.

**14a.** *No person who having been a member of the Legislative Assembly, has resigned his seat therein, shall within such*

No person resigning seat to be appointed to office

*portion of the term for which he was elected as shall at the time of such resignation remain unexpired be appointed to, hold or enjoy any office, commission or employment under the Government of the Territories to which any salary or remuneration is attached.* 1899, c. 2, s. 1.

### INDEMNITY TO MEMBERS.

Member's indemnity

**15.** In each session of the Legislative Assembly there shall be allowed and payable to each member attending such session an allowance of $500 and no more:

Provided always a deduction at the rate of $10 per day shall be made from the said sessional allowance for every day on which the member does not attend a sitting of the House or of some committee thereof provided the House sits on such day; but each day during the session (after the first and before the last day on which the member attends as aforesaid) on which there has been no sitting of the House in consequence of its having adjourned over such day or on which the member was prevented by sickness from attending, any such sitting as aforesaid shall be reckoned as a day of attendance at such session. C. O. 2, s. 15.

How paid

**16.** The said compensation may be paid from time to time as the member becomes entitled to it to the extent of $10 for each day's attendance as aforesaid, but the remainder shall be retained by the Territorial treasurer until the close of the session when the final payment shall be made. C. O. 2, s. 16.

Member for only part of session

**17.** If any member be elected and take his seat in the Assembly after the commencement of the session or if during the session any member cease to be a member, he shall be entitled to the regular sessional allowance subject to a deduction of $10 per day for each day of the session before taking his seat or after he ceased to be a member or both as the case may be. C. O. 2, s. 17.

Travelling expenses

**18.** *There shall be allowed to each member five cents for each mile of the distance between the nearest railway station to the place of residence of such member and the place at which the session is held reckoning such distance going and coming according to the shortest railway route together with his actual travelling expenses between his place of residence and such railway station when such distance is greater than five miles.* 1903, Sess. 1, c. 4, s. 1.

**19.** The sum due to every member at the close of a session shall be calculated and paid to him on his making and signing before the clerk of the Legislative Assembly or a justice of the peace a solemn declaration to be kept by the Territorial treasurer showing:

Declaration of amount due for indemnity and expenses

(*a*) The number of days on which he has attended the session;

(*b*) The number of days (if any) for which a deduction from the amount of his sessional allowance has to be made under any preceding section of this Ordinance; and

(*c*) The amount of his actual travelling expenses as determined and certified by the speaker. C. O. 2, s. 19.

### EXAMINATION OF A WITNESS.

**20.** The Legislative Assembly may at all times command and compel the attendance before the Assembly or before any committee thereof of such persons and the production of such papers and things as the Assembly or committee may deem necessary for any of its proceedings or deliberations. C. O. 2, s. 20.

Attendance of witnesses

**21.** Whenever the Legislative Assembly requires the attendance of any person before the said Assembly or before a committee thereof, the speaker may issue his warrant or subpœna directed to the person named in the order of the Legislative Assembly requiring the attendance of such person before the Legislative Assembly or a committee thereof and the production of such papers and things as may be ordered. C. O. 2, s. 21.

Speaker's warrant or subpœna

### OATHS TO WITNESSES.

**22.** Any standing or select committee of the Legislative Assembly may require the facts, matters and things relating to the subject of inquiry to be verified or otherwise ascertained by the oral examination of witnesses and may examine such witnesses upon oath and for that purpose the chairman or any other member of the committee may administer to any witness an oath or affirmation in form A or form B of schedule 2 appended to this Ordinance. C. O. 2, s. 22.

Examination on oath

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## SCHEDULE 1.

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## SCHEDULE 2.

### FORM A.

The evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth. So help you God.

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### FORM B.

You do solemnly, sincerely and truly affirm and declare that the evidence you shall give on this examination shall be the truth, the whole truth and nothing but the truth. C. O. 2.

# LEGISLATIVE ASSEMBLY.

AMENDMENT

1903 sess. 2, c. 2
21 Nov. 1903

## An Ordinance to amend Chapter 2 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Legislative Assembly of the Territories."

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Ss. 7, 8, 9, 11 and 12 c. 19 Statutes of Canada 1888 and s.18 of c. 17 Statutes of 1894 repealed

**1.** Sections 7, 8, 9, 11 and 12 of chapter 19 of the Statutes of Canada of 1888 and section 18 of chapter 17 of the Statutes of 1894 as that section is enacted by section 9 of chapter 28 of the Statutes of 1897 are hereby repealed. 1903, Sess. 2, c. 2, s. 1.

S. 2, c. 2 Ordinance of 1902 repealed

**2.** Section 2 of chapter 2 of the Ordinances of 1902 as amended by section 2 of chapter 4 of the Ordinances of 1903 (first session) is hereby repealed. 1903, Sess. 2, c. 2, s. 2.

Section 7 confirmed

**3.** Section 7 of *An Ordinance respecting the Legislative Assembly of the Territories* is hereby confirmed. 1903, Sess. 2, c. 2, s. 3.

Who may vote for members of Assembly

**4.** The persons entitled to vote at an election for the Legislative Assembly shall be the male British subjects by birth or naturalisation (other than unenfranchised Indians) who have attained the full age of twenty-one years, who have resided in the Territories for at least twelve months and in the electoral district for at least the three months respectively immediately preceding the time of voting. 1903, Sess. 2, c. 2, s. 4.

Who eligible for election

**5.** Any male British subject by birth or naturalisation shall be eligible for nomination and election. 1903, Sess. 2, c. 2, s. 5.

Oath to be taken by members

**6.** Members of the Legislative Assembly shall take and subscribe before the Lieutenant Governor or before such person as is designated by the Lieutenant Governor in Council the following oath of allegiance:

"I, *A.B.*, do swear that I will be faithful and bear true allegiance to his Majesty, his heirs and successors." 1903, Sess. 2, c. 2, s. 6.

Election of speaker

**7.** The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its members to be speaker.

Vacancy in office of speaker

(2) In case of a vacancy happening in the office of speaker by death, resignation or otherwise the Legislative Assembly shall proceed with all practicable speed to elect another of its members to be speaker.

Speaker to preside

(3) The speaker shall preside at all meetings of the Legislative Assembly. 1903, Sess. 2, c. 2, s. 7.

Persons holding office not to be members

**8.** No person except the persons hereinafter mentioned who shall hold any office or place of profit under the Government or who shall be in any manner employed in the public service of the Territories for salary, wages, fees or emolument shall sit or vote in the Legislative Assembly; and the election of any such person to be a member of the Legislative Assembly shall be null and void but nothing in this section shall be construed to apply to the speaker or deputy speaker of the Legislative Assembly. 1903, Sess. 2, c. 2, s. 8.

Members of Executive Council holding office not disqualified

**9.** Notwithstanding the provisions hereinbefore contained it shall be lawful for the Lieutenant Governor from time to time to appoint any number of officers who shall be capable of being elected members of the Legislative Assembly and of sitting and voting therein:

Provided always that such officers shall be members of the Executive Council. 1903, Sess. 2, c. 2, s. 9.

Certain officers qualified

**10.** Until such appointments as aforesaid have been made the persons for the time being holding the offices of president of the council, attorney general, Territorial treasurer, Territorial secretary, commissioner of education, commissioner of public works and the commissioner of agriculture shall be capable of sitting and voting in the Legislative Assembly. 1903, Sess. 2, c. 2, s. 10.

Seat not to be vacated by ministers changing office

**11.** Where a person has been elected a member of the Legislative Assembly since his appointment as an officer capable of being elected a member of the Legislative Assembly the subsequent acceptance by him from the Crown of an appointment as any such officer in lieu of and in immediate succession the one office to the other shall not vacate his seat. 1903, Sess. 2, c. 2, s. 11.

Persons interested in contract with Government not to be member

**12.** No person who shall either directly or indirectly be concerned or interested in any bargain or contract entered into by or on behalf of the Government or who shall participate or claim to be entitled to participate either directly or indirectly in the profit thereof or in any benefit or emolument arising from the same shall sit or vote in the Legislative Assembly and the election of any such person to be a member of the Legislative Assembly shall be absolutely null and void. 1903, Sess. 2, c. 2, s. 12.

Member becoming interested in contract or accepting office of emolument to vacate seat

**13.** If any member of the Legislative Assembly shall either directly or indirectly become concerned or interested in any bargain or contract entered into by or on behalf of the Government or shall participate or claim to be entitled to participate whether directly or indirectly in the profit thereof or in any benefit or emolument arising from the same or shall accept any office or place of emolument under the Government or shall in any character or capacity for or in expectation of any fee, gain or reward perform any duty, transact any business or do anything whatsoever for or on behalf of the Government his seat shall thereupon be vacant. 1903, Sess. 2, c. 2, s. 13.

Certain contracts excepted

**14.** Nothing hereinbefore contained shall apply to any bargain or contract entered into by or with any company where such bargain or contract shall be entered into for the general benefit of such company or to any lease, sale or purchase of any land or to any agreement for any such lease, sale or purchase of any building or land or for the loan of money or to any security for the payment of money only. 1903, Sess. 2, c. 2, s. 14.

Penalties

**15.** Any person who shall wilfully offend against any of the provisions hereof shall forfeit and pay for every such offence the sum of not less than $100 and not more than $500 on conviction thereof in a summary way before two justices of the peace. 1903, Sess. 2, c. 2, s. 15.

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# LIENS.

*See* KEEPERS OF HOTELS AND BOARDING HOUSES.
LIEN NOTES.
LIENS ON LAND FOR TAXES.
MECHANICS' LIENS.
THRESHERS' LIENS.

# LIENS ON LAND FOR TAXES.

*See* IRRIGATION.
LOCAL IMPROVEMENT.
VILLAGES.

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# LIMITATION OF ACTIONS.

## An Ordinance respecting Limitation of Actions in Certain Cases.

C O. 1898, c. 31
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** All actions for recovery of merchants' accounts, bills, notes and all actions of debt grounded upon any lending or other contract without specialty shall be commenced within six years after the cause of such action arose. C. O. 31, s. 1. Actions on simple contracts

**2.** The provisions of *The Real Property Limitation Act 1874*, being chapter 57 of the Statutes of the Imperial Parliament, passed in the thirty-seventh and thirty-eighth years of her Majesty's reign, are hereby declared to be in force and to have been in force in the Territories since the passing thereof. C. O. 31, s. 2. *The Real Property Limitation Act* (Imp.) in force

**3.** *No right to the access and use of light or any other easement, right in gross or profit* a prendre *shall be acquired by any person by prescription and no such right shall be deemed to have been so acquired prior to the coming into force of this Ordinance.* 1903, Sess. 2, c. 7, s. 1. Title by prescription, etc.

# LIQUOR LICENSE.

| | |
|---|---|
| *Principal Ordinance revised* .... | *C.O. 1898, c. 8, passed* |
| *Amendment* .... .... .... | *1900, c. 32* |
| *Amendment* ... ... ... | *1901, c. 33* |
| *Amednment* .... .... .... | *1903, sess. 1, c. 26* |

C.O. 1898 c. 89
15 March 1899

## An Ordinance respecting the Sale of Intoxicating Liquors and the Issue of Licenses Therefor.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The Liquor License Ordinance."* C. O. 89, s. 1.

### INTERPRETATION.

**Interpretation**

**2.** In this Ordinance and in the schedules thereto the words and expressions following shall, unless such interpretation be repugnant to the subject or inconsistent with the context, be construed as follows:

**"Board"**

1. "Board" means the board of licence commissioners;

**"District"**

2. "District" means a licence district;

**"Householder"**

3. "Householder" means:

(*a*) The owner or owners of any house or place of business not actually occupied by any other person under lease for a year or any longer term;

(*b*) The tenant or tenants in actual occupation of any house or place of business under a lease for a year or any longer term. Husband and wife living together shall not be considered as separate householders but the husband shall be deemed the householder;

**"Dwelling house"**

4. "Dwelling house" means an actual separate dwelling with a separate door for ingress and egress;

**"Justice"**

5. "Justice" means a justice of the peace;

**"Hotel license"**

6. "Hotel licence" means and includes every licence granted for the sale by retail of fermented, spirituous or other liquors which may be consumed on the premises on which the same is sold whether hotel premises or not;

**"Licensee"**

7. "Licencee" means a person holding a licence under this Ordinance;

"Person"

8. "Person" includes every member of a firm and the servant, office holder, agent of a company, association or body of persons whether incorporated or not;

"Licensed premises"

9. "Licensed premises" means the premises in respect of which a licence under this Ordinance has been granted and is in force and extends to every room, closet, cellar, yard, stable, outhouse, shed or any other place whatsoever of, belonging or in any manner appertaining to such house or place;

"Liquor" "Liquors"

10. "Liquor" or "liquors" means and comprehends all spirituous and malt liquors and all combinations of liquors and drinkable liquors which are intoxicating;

"Public bar" "Bar"

11. "Public bar" or "bar" means and includes any room, passage or lobby in any licensed premises into which the public may enter and purchase liquors;

"Inspector"

12. *"Inspector" means a licence inspector appointed by the Lieutenant Governor in Council under the provisions of this Ordinance;*

"Sale by retail"

13. "Sale by retail" means the sale of a quantity, not to exceed half a gallon at any one time, of ale, beer or porter or one quart of wine or spirits;

"Electors"

14. "Electors" means those who are entitled to vote at an election for a member of the Legislative Assembly of the Territories;

"Judge"

15. "Judge" means a judge of the supreme court usually exercising jurisdiction in the judicial district in which the licence district (or the greater portion thereof) is situate. C. O. 89, s. 2; amend. by 1900, c. 32, s. 2.

### EXCEPTIONS FROM APPLICATION OF ORDINANCE.

Application of Ordinance limited

**3.** Nothing in this Ordinance shall apply:

Manufacturers of native wine

1. To manufacturers of native wine from fruits grown and produced in Canada and who sell such wines in quantities of not less than one gallon or not less than two bottles of three half pints each at one time at the place of manufacture;

Auctioneer selling liquor forming part of insolvent debtor's estate

2. To any person who holds a licence as auctioneer selling liquor at public auction:

Provided that the liquor being sold forms part of an insolvent debtor's estate and is named in the inventory thereof and offered for sale under instructions from the creditor or creditors of such estate or his or their assignee, agent or trustee and that the stock of such liquors is not broken for the purpose of such sale and is not removed from the place in which such liquors were originally exposed under licence;

Sale of beer in N.W.M.P. canteens

3. To the sale of beer in any canteen of the North-West Mounted Police established under proper authority; such sale to be restricted to members of the North-West Mounted Police;

Judicial sales

4. To the sale of any liquor by virtue of an execution or other judicial process;

Bona fide transfer with license

5. *To a* bona fide *sale by a licencee of his stock of liquors in conjunction with a sale and transfer of his interest under the licence;*

Within 60 days after expiration of licence

6. *To a* bona fide *sale to a licencee or licencees by a person who has been the holder of a licence at any time within sixty days after his licence has ceased to be in force;*

Death of licensee

7. *To a* bona fide *sale to a licencee by the personal representative of a deceased licencee at any time within sixty days after such decease.*

Mess of militia

8. *To the mess of any portion of the militia of Canada established under proper authority such sale to be restricted to members of the militia of Canada.* C. O. 89, s. 3; amend. by 1901, c. 55, s. 1, and 1904, c. 14, s. 1.

## LICENCE DISTRICTS.

License districts

4. The Lieutenant Governor in Council shall establish districts for the purposes of this Ordinance to be called licence districts and may from time to time alter and redefine the same; and the licence districts when so established and when altered shall be announced by proclamation in *The North-West Territories Gazette.* C. O. 89, s. 4.

## LICENCE COMMISSIONERS.

Board of license commissioners

5. There shall be a board of licence commissioners to be composed of three persons to be appointed from time to time by the Lieutenant Governor in Council for each licence district and each of them shall cease to hold office on the thirty-first day of December in each year subject however to removal at any time before that date at the pleasure of the Lieutenant Governor in Council but may be reappointed and the said office shall be honorary and without any remuneration except that such commissioners may be allowed for their travelling and other expenses while attending meetings of the board the sum of $5 per day and their actual railway fare or expenses for horse hire and each of such boards may elect one of their number to act as chairman and one to act as secretary.

Oath of office of commissioners

(2) Every commissioner shall forthwith after his appointment and before performing any of the duties of his office take and subscribe the following oath or affirmation:

I (*name in full*) do hereby solemnly swear (*or* affirm) that I will faithfully perform my duty as a licence commissioner for licence district number . So help me God.

Sworn (*or* affirmed) before me, *A.B.*, at
in the North-West Territories this
day of A.D. 1 .
J.P., or etc., etc.

[*In the case of an affirmation the words "So help me God" shall be omitted.*]

(3) The said oath or affirmation shall be forthwith returned by the commissioner to the *attorney general*. C. O. 89, s. 5, amend. by 1900, c. 32, s. 1.

### LICENCE INSPECTORS.

**6.** * * * * * * * * *

Appointment of license inspectors

**7.** The Lieutenant Governor in Council may appoint one or more licence inspectors for any licence district or for the Territories and shall fix their salaries or fees and prescribe their duties. C. O. 89, s. 7.

Inspectors to visit licensed places when directed

**8.** It shall be the duty of every inspector from time to time when directed by the *attorney general* to visit and inspect every licensed place within the district and to report forthwith to him every case of infraction of the provisions of this Ordinance; and every inspector shall at once and in conformity with the provisions herein contained prosecute any person so offending and shall suffer no unnecessary delay to intervene between his obtaining the information and the prosecution. C. O. 89, s. 8; amend. by 1900, c. 32, s. 1.

**9.** * * * * * * * * *

Inspector to lay information and prosecute

**10.** In case any person gives to the inspector information justifying the prosecution of any person for offences against this Ordinance it shall be the duty of the inspector to lay the information in his own name and prosecute. C. O. 89, s. 10.

Incorporated cities or towns may appoint inspectors

**11.** *The council of any city, town or rural municipality or the ratepayers of any village at the annual meeting or at any special meeting called for that purpose may appoint an inspec-*

*tor or inspectors of licences who shall have all the powers conferred by this Ordinance upon inspectors within the limits of such city, town, rural municipality or village; and in case any person is convicted of an offence against any of the provisions of this Ordinance through the action of such inspector then the Territorial treasurer shall pay to such city, town, rural municipality or village one-half of any fine recovered through such conviction.* 1900, c. 32, s. 5.

### LICENCES.

Form of license

**12.** Licences shall be either:

(*a*) "Hotel" or

(*b*) "Wholesale."

(2) Licences shall be signed by the *attorney general* and shall be in form F appended hereto.

Wholesale license

(3) Under a wholesale licence the licencee may sell and dispose of liquors in the warehouse, store, shop or place defined in the licence in quantities of not less than one-half gallon in each cask or vessel and in case of such selling by wholesale as in respect of bottled ale, beer, porter, wine or other fermented or spirituous liquors each such sale shall be in quantities not less than one reputed quart bottle or two reputed pint bottles and liquors thus sold shall not be consumed in or upon the house and premises in respect of which the licence is granted:

Provided that in case of any conviction against a wholesale licencee for allowing liquors to be consumed in or upon such house or premises such licencee shall absolutely forfeit his licence or licences and no new licence shall thereafter be granted to such licencee in the licence district in which such licensed premises are situate:

Wholesale license limited

Provided further that in incorporated cities and towns no business other than a liquor business and the sale of cigars and tobacco shall be carried on upon the premises covered by such wholesale licence. C. O. 89, s. 12 and 1900, c. 32, s. 1.

License may issue in name of copartnership

**13.** Licences may be issued in the name of a copartnership when two or more persons are carrying on business in the same name but a separate licence shall be required in every separate place of business of such firm.

Dissolution of partnership

(2) A licence granted to any firm or partnership shall without any formality enure to the benefit of the remaining partner or partners in the event of the withdrawal or removal of any of them by dissolution or any other determination of the partnership.

**Each member of firm liable**

(3) *Each member of a licensed partnership shall be liable to the penalties imposed against licencees for breach of the provisions of this Ordinance.*

**Effect of conviction against member of firm**

(4) *For the purposes of the consequences of any conviction under this Ordinance a conviction against any person who is a member of a licensed partnership whether made while he is a member of such partnership or prior thereto shall have the same effect as if such conviction had been against each member of the said partnership.*

**No licence to member of firm**

(5) *No licence shall be granted in the name of one member only of a partnership and any licence so granted shall be void.* C. O. 89, s. 13; amend. by 1903, Sess. 1, c. 26, s. 1.

**Incorporated company may become licensee**

**14.** Any incorporated company may become a licencee or licencees in any district under the provisions of this Ordinance and in such cases all acts required under the provisons of this Ordinance to be done by any person as licencee whether prior to or after the granting of a licence may be done in the name of the company by the officer or agent of the said company in charge of the particular premises for which the licence is to be or shall have been granted, *who personally shall be liable as licencee as well as said company in respect of the offences and penalties under this Ordinance.* C. O. 89, s. 14, amend. 1900, c. 32, s. 6.

**Officer or agent may act**

**15.** * * * * * * * *

**Dining hall licenses for beer**

**16.** Any keeper of a dining hall situated within fifty feet of the lines of railway may obtain a dining hall licence for the sale of beer only and shall pay therefor the sum of $100 to the Territorial treasurer; such licences shall expire on the thirtieth day of June in each year:

Provided that where any such licence is granted the premises being within the limits of an incorporated city or town the licencee may by bylaw be required to pay to such incorporated city or town such a sum not exceeding $100 as it may determine. C. O. 89, s. 16.

**Special license to railway company**

**17.** Any railway company may obtain a special licence from the *attorney general* to sell wine, ale, beer and spirits on any dining car attached to a train upon the line of their railway and shall pay therefor the sum of $100 to the Territorial treasurer; such licences shall expire on the thirtieth day of June in each year.

(2) The general provisions of this Ordinance as to applications for licences and the proceedings thereon shall not apply in the case of applications for licence under this or the preceding section. C. O. 89, s. 17.

Additional hotel licenses

**18.** In any incorporated city containing a population of three thousand or over, additional hotel licences may be issued to two restaurants and in any incorporated city containing a population of two thousand or over, an additional hotel licence may be granted to one restaurant and the board may dispense with hotel qualifications for that purpose but the restaurants so licensed shall be subject to the other provisions contained in this Ordinance regarding hotel licences and the holders of such licences shall be subject to the provisions herein contained concerning hotel licences:

Provided that no licences shall be issued to restaurants where the municipal council has notified the board protesting against the issue of such licences.

Certificate of ratepayers

(2) No such licence shall be granted until the premises have been inspected and found to contain a suitable dining room, kitchen and necessary appliances, and until a certificate has been filed with the inspector signed by ten resident ratepayers assessed on the last assessment roll for $1,200 or upwards certifying that in their opinion said restaurant is desirable for the purpose of providing meals for the public, and the inspector shall see that meals are furnished for the public during the existence of said licence. C. O. 89, s. 18.

License to be a license only to person named therein

**19.** Subject to the provisions of this Ordinance as to removals and the transfer of licences every licence for the sale of liquors shall be held to be a licence only to the person named therein and for the premises therein mentioned and shall remain valid only as long as such person continues to be the occupant of the said premises and the true owner of the business there carried on. C. O. 89, s. 19.

Disqualified persons ineligible

**20.** No licence shall be granted to any person declared in pursuance of this Ordinance to be a disqualified person during the continuance of such disqualification; any licence issued to a person so disqualified shall be void. C. O. 89, s. 20.

Commissioner or inspector cannot obtain license

**21.** No licence shall be granted under the provisions of this Ordinance to or for the benefit of any person who is a licence commissioner or licence inspector and any licence so issued shall be void. C. O. 89, s. 21.

**22.** No licence shall be issued under the provisions of this Ordinance for premises within any district of which a member of the board or the inspector of such district is the owner. C. O. 89, s. 22.

**Premises owned by commissioner or inspector not licensed**

**23.** *No licence shall be granted to any married woman who is not a licencee at the time of the coming into force of this Ordinance.* 1903, Sess. 1, c. 26, s. 3.

**No license to married women**

**24.** *Every licensed hotel shall contain in addition to what is required for the use of the licencee, his family and servants the number of bedrooms following, that is to say:*

**Hotel accommodation**

(*a*) *In cities and towns at least twenty;*

(*b*) *In villages at least ten;*

*and in every case a suitable complement of bedding and furniture.*

(2) *Every licensed hotel shall have two public sitting rooms separate and distinct from the bar room.*

(3) *The foregoing subsections shall not apply in the case of hotels for which a licence is in force or recommended by the board of licence commissioners at the passing of this Ordinance until the first day of July, 1905, the provisions of the first and second subsections of the said repealed section 24 remaining in force in respect of such hotels until the said first day of July, 1905.*

(4) *Every licensed hotel shall be provided with suitable and sufficient appointments and appliances for serving meals daily to travellers.*

(5) *Every licensed hotel shall be provided with suitable privies to be approved by the inspector which shall at all times be kept clean and ventilated.*

(6) *The premises, furniture, bedding and other appointments of every licensed hotel shall at all times be kept clean.*

(7) *The nonobservance of any of the provisions of this section shall be deemed to be a violation by the licencee of such provisions.*

(8) *Every licensed hotel shall be provided with suitable fire escapes to be approved by the inspector and in places having a fire brigade by the chief of such brigade.* 1901, c. 31, s. 4 and 1904, c. 14, s. 2.

## APPLICATION FOR LICENCE.

Licenses how issued

**25.** Every licence shall be issued upon the recommendation of the board except as herein provided. C. O. 89, s. 25.

Meetings of board

**26.** The board shall sit during the month of May in each year at such place and at such date as may be arranged and notified to them by the *attorney general* to receive and dispose of applications for licence and to hear and decide protests. C. O. 89, s. 26, and 1900, c. 32, s. 1.

Board may adjourn meeting

**27.** At such meeting the board may adjourn the hearing of any application or any protest to any other place and time if they see fit and as far as possible protests shall be tried in the locality in which application for licence is made.

(2) The board may be called together at any time by the *attorney general* and the board may meet at any time of their own motion.

Board may adjourn meeting if quorum not present

(3) If from any cause a *majority* of the board fails to be present on the day fixed for the meeting or at any adjournment of a meeting the said meeting or adjourned meeting shall stand adjourned from day to day until a quorum shall be present to hold such meeting. C. O. 89, s. 27 and 1900, c. 32, ss. 1 and 7.

Application for licenses

**28.** Every application for a licence shall be by petition (in form A appended hereto) and such application and also recommendation (in form B) and the affidavits (in forms C and D) shall be sent to the Territorial treasurer along with the sum of $10 so that it may reach him on or before the first day of April. On receipt of the same it shall be the duty of the Territorial treasurer to sign a receipt in duplicate for such sum of $10 and to send one thereof to the applicant and the other together with such application and recommendation to the *attorney general.*

(2) The recommendation (form B) shall not be required in the case of any application for a licence in an incorporated city or town. C. O. 89, s. 28 and 1900, c. 32, s. 1.

Advertisement of applications

**29.** As soon as possible after the first day of April the *attorney general* shall advertise by one insertion in a newspaper in each locality for which applications (accompanied by said receipt and recommendation (where required) have been received by him or as near such locality as possible, a list of all such applications received for such locality showing the name of each applicant, description of licence applied for and the place described with sufficient certainty together with a notice of the time and place of the meeting of the board to be held to consider such applications; at least twenty-four days shall intervene between the publication of the advertisement and the date of such meeting; and a notice containing similar information shall be fixed to the outer door of the building where the board is to sit, and be sent to the postmaster nearest to the proposed licensed premises to be posted up in the post office; and the *attorney general* shall also send to an inspector a list of all applications made in his district; upon receiving such list such inspector shall inspect the premises of each applicant named and make the report provided for in this Ordinance. Such inspector shall produce such reports at the then next meeting of the board in the district. C. O. 89, s. 29 and 1900, c. 32, s. 1.

**Papers to be sent to district inspector**

**30.** The *attorney general* shall attach all the papers relating to each application together and transmit them together with a statement shewing all convictions under this Ordinance against any applicant, to the inspector of the district who shall produce them at the meeting of the board.

**Papers open to public inspection**

(2) All papers connected with applications or protests while in the hands either of the *attorney general* or district inspector shall be open to the inspection of the public. C. O. 89, s. 30 and 1900, c. 32, s. 1.

**Inspector to return papers to chief inspector with board's certificate**

**31.** After the meeting of the board the inspector shall return the said papers to the *attorney general* with a certificate signed by at least the majority of the commissioners present at the meeting showing whether the licence is recommended or not and if not recommended stating the reasons. C. O. 89, s. 31 and 1900, c. 32, s. 1.

**Chief [illegible] to [illegible]**

**32.** Upon receipt of the papers and certificates the *attorney general* shall notify each successful applicant that he is required to send to the Territorial treasurer on or before the fifteenth day of June:

*a* Where the premises to be licensed are within an incorporated city or town which has provided by by-law for the payment of a municipal licence fee under subsection 2 of section 46 hereof, a certificate which shall be furnished free of charge from the municipal clerk or treasurer of the payment of such fee:

**Certificate [illegible] treasurer**

*b* The amount of the Territorial licence fee together with five per cent. thereof in addition as a prosecution fund.

**Licence fee and prosecution fund**

Licenses to be sent

(2) Upon receipt of said moneys and certificate (where required) the Territorial treasurer shall sign a receipt in duplicate for the same, one of which he shall transmit to the applicant and the other along with the certificate (where required) to the *attorney general* who shall thereupon send to such applicant a licence in form F appended hereto. C. O. 89, s. 32 and 1900, c. 32, s. 1.

Applications at other times

**33.** Any person desiring to obtain a licence at any other time than as above provided may send to the Territorial treasurer his application and $10 as above provided; the *attorney general* upon receipt of the application and the Territorial treasurer's receipt shall calculate the expense of calling the board together, *of inspection of the premises* and of advertising and shall notify the applicant that his application will not be considered until the amount so estimated for the expense of calling the board together, *of inspection of the premises* and of advertising has been received by the Territorial treasurer; upon receipt of such amount by the Territorial treasurer the *attorney general* shall arrange for the advertising of the application, the inspection of the premises and the calling together of the board at as early a day as possible to deal with the application—provided that in case more than one application is made at the same time to the same board the expense shall be divided *pro rata* among the applicants but no licence shall be granted to any person under the provisions of this section whose application for a licence under section 28 hereof has been rejected. C. O. 89, s. 33, 1900, c. 32, s. 1 and 1901, c. 33, s. 3.

Application for renewal of license for same premises

**34.** Any existing licencee may apply for the renewal of his licence for the same premises for another term in which case the recommendation in form B shall not be required unless since obtaining such recommendation he has been convicted of an offence under this Ordinance. C. O. 89, s. 34.

Fees paid into general revenue fund

**35.** All licence moneys and fees payable under this Ordinance shall be paid to the Territorial treasurer and shall go to the general revenue fund.

(2) *The amount estimated by the attorney general for expenses as provided in section 33 hereof when received shall be deposited and retained in a trust account until the actual expenses incurred are ascertained when the amount of such actual expenses shall be paid to the persons entitled and the balance if any shall be refunded to the applicant:*

*Provided that if the amount of the actual expenses when ascertained should prove to be greater than the amount paid by* *the applicant for expenses as estimated the difference shall be paid by the applicant to the Territorial treasurer forthwith upon demand; and in the event of failure on the part of the applicant to pay the same within fifteen days after such demand the same may be recovered as a debt at the suit of the attorney general; and the licence if any of the applicant may be suspended by the attorney general until such payment is made and in the meantime the actual expenses unprovided for shall be paid out of the general revenue fund.* C. O. 89, s. 35 and 1901, c. 33, s. 4.

**36.** Any seven or more out of the twenty householders residing nearest to the premises for which a licence is required may by petition in form G appended to this Ordinance object to the granting of such licence and the objections which may be taken to the granting of a licence may be one or more of the following: **Protests**

(*a*) That the applicant is of bad fame and character or of drunken habits or has previously forfeited licence; or **Bad fame**

(*b*) That the premises in question are out of repair or have not the accommodation required by law or reasonable accommodation if the premises be not subject to the said requirements; or **Premises out of repair**

(*c*) That the licensing thereof is not required in the neighbourhood or that the premises are in the immediate vicinity of a place of public worship, hospital or school or that the quiet of the place in which such premises are situate will be disturbed if a licence be granted or for other valid reasons which may be shown. **Not required**

(2) The petition shall be transmitted to the Territorial treasurer accompanied with $10 in time for its receipt by him not less than ten days before the then next sitting of the board; on receipt thereof the Territorial treasurer shall acknowledge the same in writing to the person from whom he received it; he shall indorse on the back of the petition the date he received the same with the money aforesaid and forward the said petition to the *attorney general* who forthwith shall transmit it to the inspector for production at the said sitting of the board. **Petition to be sent to Territorial treasurer**

(3) The said sum of $10 shall be held in trust and in case the protest is successful shall be returned to the person whose name is first upon the petition. In case the protest is not successful the said sum of $10 shall be paid into the general revenue fund. **Protest fee held in trust** **Returned if successful**

Costs of adjournment

(4) *At any meeting of the board at which an adjournment in order to consider any protest is asked by or on behalf of any persons protesting the board before fixing the day and place for the hearing of such protest shall require the party asking for such adjournment to deposit with the board a sum of money sufficient to cover the costs of such adjourned hearing and unless such sum is forthwith deposited may proceed to hear and determine such application and any sum deposited shall forthwith be forwarded by the chairman of the board to the attorney general and in the event of such protest being unsuccessful the costs of such adjourned hearing shall be deducted from the amount deposited and the balance if any returned to the person making the deposit.*

Written decision

(5) The board shall give a written decision stating which if any of the objections stated in the protest are sustained or not as the case may be.

Petition to be signed within 60 days prior to receipt

(6) Such petition must be signed within the period of sixty days immediately prior to the day it is so received by the treasurer and the justice or commissioner before whom the same is signed shall certify the date upon which each person signs such petition. C. O. 89, s. 36; 1900, c. 32, s. 1 and 1904, c. 14, s. 3.

Where recommendation not required

**37.** A licence shall not be granted to any person to sell intoxicating liquors outside of incorporated cities or towns who has not first obtained the recommendation in writing in form B.

Recommendation to be signed within 60 days prior to receipt

(2) Such recommendation must be signed within the period of sixty days immediately prior to the day it is so received by the Territorial treasurer and the justice, notary or commissioner before whom the same is signed shall certify the date upon which each person signs such recommendation.

Time for application

(3) *After the first day of July, 1903, no application for a new licence and after the first day of July, 1904, no application for a renewal licence shall be entertained in respect of any hotel or wholesale premises not situate in some city, town or village, or some place containing not less than fifteen dwelling houses within an area not greater than 1,280 acres.* C. O. 89; s. 37, and 1903, Sess. 1, c. 26, s. 5.

Recommendation to state distances

**38.** Every recommendation and protest (forms B and G) having reference to the granting of a licence shall have in addition to each signature thereon a statement of the approximate distance from the premises to which such petition refers of the residence of each person signing the same. C. O. 89, s. 38.

Hearing applications and protests

**39.** Every application for a licence and all protests if any against every such application shall be heard and determined by the board in a summary manner.

(2) Every such hearing of an application or protest shall be open to the public and every applicant for a licence shall attend personally at such hearing unless hindered by sickness or infirmity and the board may summon and examine on oath such witnesses as they may think necessary and as nearly as may be in the manner directed by any Act now or hereafter in force relating to the duties of justices in relation to summary convictions and orders and any one member of the board may administer such oath. Open to public

(3) Every such hearing may at the discretion of the board be adjourned from time to time. Adjournment

(4) At all hearings under this Ordinance the individuals composing the board shall have the same powers as justices of the peace. C. O. 89, s. 39. Powers of board

**40.** On every application for a licence except for a wholesale licence the inspector shall report in writing to the board and such report shall contain: Inspector's reports on applications for hotel licenses

1. A description of the house, premises and furniture;

2. If the application be by a person who held a licence for the same premises during the preceding year a statement as to the manner in which the house has been conducted during the existence of the previous licence;

3. A statement of the number, position and distance from the house in respect of which a licence is applied for, of the licensed houses in the neighbourhood;

4. A statement whether the applicant is a fit and proper person to have a licence and is known to be of good character and repute;

5. A statement whether the premises sought to be licensed are or are not in his opinion required for public convenience;

6. A statement whether the applicant is or is not the true owner of the business of the hotel proposed to be licensed; *and if not the owner of the premises whether he has a lease of such premises for the term of the currency of the licence applied for;*

7. A statement whether the persons signing the recommendation (form B) are in the opinion of the inspector ten out of the twenty householders nearest to the building in which the business proposed to be licensed is to be carried on. C. O. 89, s. 40 and 1901, c. 33, s. 5.

**41.** In every application for a wholesale licence the inspector shall report to the board in writing and such report shall contain: Inspector's report on application for wholesale licenses

1. A description of the house and outbuildings with the number of the lot or section they are comprised within;

2. If the applicant be a person who held a licence in the same district during the preceding year a statement as to the manner in which the business was conducted during the existence of the previous licence;

3. A statement showing:

(*a*) Whether the applicant is or is not a fit and proper person to have a licence and is known to be of good character and repute;

(*b*) Whether the business sought to be licensed is or is not in his opinion required for public convenience;

(*c*) Whether the applicant is or is not the true owner of the business proposed to be licensed;

(*d*) Whether the persons signing the recommendation (form B) are in the opinion of the inspector, ten out of the twenty householders nearest to the building in which the business proposed to be licensed is to be carried on. C. O. 89, s. 41.

Discretion of board

**42.** The report of the inspector shall be for the information of the board who shall nevertheless exercise their own discretion on each application. C. O. 89, s. 42.

## HEARING AND DETERMINING APPLICATIONS.

Duties of board

**43.** The board having ascertained that the requirements of this Ordinance as to the application and the report of the inspector have been complied with, but not otherwise, shall hear the application.

Hearing and determining protests

(2) The board shall hear and determine all protests and objections which may be made against applications on evidence as shall seem to them sufficient.

Persons signing protest may be heard

(3) Any person who is qualified to protest and has signed a formal protest in form G hereto appended against the granting of a licence may be heard in relation thereto in person or by attorney or agent.

Municipal council may be represented

(4) The council of any municipality may authorise any person to appear in a similar manner on behalf of the ratepayers of such municipality as to the granting of a licence and such person so authorised shall have a right to be heard before the board against the granting of such licence.

(5) No objection in respect of the character of any applicant shall be entertained unless three days' written notice has been given to the applicant and no protest need be noticed if not made in accordance with this Ordinance.

Notice of objections to character

(6) No objection from an inspector shall be entertained unless the nature of the objection shall have been stated in the report furnished to the board.

Objection from inspector to be stated in report

(7) Notwithstanding anything in this Ordinance contained the board may of its own motion whether a protest has been filed or not take notice of any matter or thing which in their opinion would be an objection to the granting of a licence. In any such case the board shall notify the applicant and shall adjourn the hearing of the application if requested by him for any period not exceeding fourteen days and not less than seven days or any time fixed with the consent of the applicant in order that any person affected by the objection may have an opportunity of answering the same.

Board may take notice of any objection

Applicant to be notified

(8) Where the applicant for a hotel licence resides in a remote part of the district or when for any other reason the board sees fit they may dispense with the report of the inspector and act upon such information as may satisfy them in the premises. C. O. 89, s. 43.

Inspector's report may be dispensed with

**44.** The decision of the board when once announced by the chairman shall not be questioned or reconsidered: provided nevertheless that in cases where the person or persons affected by such decision petition the board and allege facts and grounds for their consideration not formerly before them or in cases in which the board have not been unanimous the board may by resolution in which all the members concur decide to rehear the case. When a rehearing is allowed notice thereof shall be given by the inspector to the applicant and to at least one of the petitioners or his agent. C. O. 89, s. 44.

Decision of board final

Provision for rehearing

**45.** If an applicant for a licence has at any time been refused a licence on the ground that he is not a fit person to hold a licence no application by such applicant if opposed shall be entertained by any board within a period of two years of the last of such refusals. C. O. 89, s. 45.

Applicant refused on ground that he is not fit person

## LICENCE FEES.

**46.** Every person to whom a licence to sell intoxicating liquor shall hereafter be granted shall before receiving such licence be required to pay as a fee for such licence in addition

License fee

to any fee required to be paid to the incorporated city or town in which such licence has been or is required to be granted, the following duties that is to say:

1. For each hotel licence, the sum of $200;
2. For each wholesale licence, the sum of $200:

Provided that in the case of bottling works where ale or lager beer only is bottled the fee shall be one-half of the fees payable for the wholesale licence.

Fee to city or town under bylaw

(2) Incorporated cities or towns *that have appointed an inspector or inspectors under the provisions of section 11 of this Ordinance* may by bylaw require each licencee to pay towards their municipal revenue such sums as they may determine not exceeding the amount of the Territorial duty payable on such licence and the *attorney general* shall in no case issue a licence until he has received a certificate from the treasurer or clerk of said municipality showing the amount of such fees and that such sum has been paid; such bylaw and every substituted and amended bylaw shall be promptly certified and forwarded to the *attorney general* and such bylaw shall continue in force until amended, altered or repealed, without being re-enacted each year.

Bylaws to be sent to chief inspector

Duration of

Proportionate part of annual license fees

(3) In all cases where licences are taken out for a portion only of the year the amount payable to the Territorial treasurer and to the incorporated city or town for licence fees under this section shall be a proportionate part only of the amount required for one year.

Village license fee

(4) *Any village which has appointed an inspector under the provisions of section 11 of this Ordinance may by resolution passed at the annual meeting or any special meeting called for that purpose require each licencee to pay to the overseer for the use of the village a licence fee not exceeding fifty dollars which fee shall be paid and a receipt given therefor and the same forwarded to the attorney general before the licence is issued by him but until the attorney general has been furnished with a certified copy of the resolution appointing a licence inspector and the resolution fixing a licence fee such last mentioned resolution shall not be deemed to be effective.* C. O. 89, s. 46; 1900, c. 32, ss. 1 and 8, and 1903, Sess. 1, c. 26, s. 6.

## SECURITY.

Bonds by licensees

**47.** Before any licence is issued the person applying for the same shall enter into a bond to his Majesty in the sum of $500 with two good and sufficient sureties to be approved by the board, justifying by affidavit, in the sum of $250 each, conditioned for the payment of all fines and penalties which such person may be condemned to pay in respect of any offence against this Ordinance to be recovered at the suit of the attorney general by civil process in the ordinary way and such bond shall be in the words or to the effect of form E appended to this Ordinance. C. O. 89, s. 47, and 1901, c. 33, s. 6.

### CANCELLATION OF LICENCES.

**Cancellation of licenses**

**48.** The board shall at any time cancel any licence upon proof that the conditions necessary to the granting of such licence do not exist and also in case it is shown that the licencee is not keeping his premises in accordance with the provisions of this Ordinance and any rules and regulations made thereunder. C. O. 89, s. 48.

**Cancellation of licenses by attorney general**

**49.** The *attorney general* may subject to the approval of the Lieutenant Governor in Council at any time upon application by a licencee cancel a licence and allow a rebate to such licencee of a portion of the moneys paid for licence both to the municipality and to the Territorial treasurer.

(2) A licence may be cancelled under this section on account of the destruction of the premises or for any reason satisfactory to such *attorney general.*

**Rebate**

(3) In case such rebate is allowed it shall be the duty of the municipality and the Territorial treasurer to refund to such licencee such amount so allowed. C. O. 89, s. 49, and 1900, c. 32, s. 1.

### TRANSFER OF LICENCES.

**License continued 60 days after death of licensee or transfer**

**50.** *The rights and liabilities of a licencee shall enure to the legal representative of a deceased licencee and to the transferee of the business of a licencee for a period of sixty days after the death or transfer; and during such period such legal representative or transferee shall for the purposes of this Ordinance be considered a licencee;*

(2) *At the expiration of the said period of sixty days the licence shall* ipso facto *become forfeited and be absolutely null and void unless such legal representative or transferee shall prior thereto have obtained the written consent of the attorney general to the continuance of the business or to the transfer of the licence:*

*Provided that the said period of sixty days may be extended, for good cause shown, by the attorney general for a further period not exceeding thirty days.*

(3) *Upon such written consent being given the legal representative or transferee as the case may be shall have the same rights and be subject to the same liabilities as if the licence had been originally granted to him and shall for the purpose of this Ordinance be deemed a licencee.* 1901, c. 33, s. 7.

Licensee legally ejected

Special license to new tenant

**51.** Where a licencee has been legally ejected from any licensed premises the board may, notwithstanding the nonproduction of the licence, on the application in writing of the owner of the premises and the proposed new tenant, if they cannot produce the licence, grant a special licence to such new tenant in such form as they shall think applicable, such special licence to be signed by the *attorney general;* provided always that the board shall be satisfied that actual value has been received from said owner by said licencee. C. O. 89, s. 51, and 1900, c. 32, s. 1.

Balance of term

Proviso

**52.** The board may by order authorise any person they may think entitled to the benefit of any licence to carry on the business in the licensed premises for the remainder of the term for which the licence was granted in the same manner as if such licence had been formally transferred to such person (provided proof of value received be given as provided in the next preceding section) in the following cases:

Desertion of premises

1. Whenever any person to whom a licence has been granted deserts the licensed premises or refuses or neglects to transfer the licence when justly required so to do; or

Vacancy

2. If during the currency of any such licence the holder thereof ceases to occupy the premises in respect whereof the licence is held or his tenancy of such premises is determined by effluxion of time or by notice to quit or by any other process whatsoever. C. O. 89, s. 52.

After disqualification treating matter as in case of transfer

**53.** Where any licensed person is convicted of any offence and in consequence either becomes personally disqualified or has his licence forfeited the board upon application by or on behalf of the owner of the premises in respect of which the licence was granted (where the owner is not the occupier) and upon being satisfied that such owner was not privy nor a consenting party to the act of his tenant and that he has legal power to eject the tenant of such premises, may by order authorise an agent to carry on the business specified in the licence relating to such premises until the end of the period for which such licence was granted, in the same manner as if such licence had been formally transferred to such agent:

Provided always such owner shall pay as fee for the balance of the term of the licence unexpired a proportionate part of the amount required for one year. C. O. 89, s. 53. Proviso

**54.** In case of the marriage of any woman being a licencee the licence held by her shall confer on her husband the same privileges and shall impose on him the same duties, obligations and liabilities as if such licence had been granted to him originally: Marriage of female licensee

Provided that the *attorney general* on application of the husband of any such licencee, *if* satisfied that no objection can be made to the character of the husband and that he has not forfeited a licence within the next preceding three years, may confirm to him his wife's licence for the remainder of the term of the duration thereof of which confirmation a certificate signed by the *attorney general* shall be conclusive evidence. C. O. 89, s. 54, and 1900, c. 32, ss. 1 and 10. Proviso

### REMOVAL OF LICENCEES.

**55.** The *attorney general* may, after order allowing the same by the board, indorse on any hotel or wholesale licence, permission to the holder thereof to remove from the house to which his said licence applies, to another house to be described in the indorsement to be made by the said *attorney general* on the said licence; provided always that the house to which the licencee proposes to remove has all the accommodation required by law and subject to the requirements in the case of an original application for the same kind of a licence. Removal to other premises

(2) Such permission when the approval of the said *attorney general* is indorsed on said licence shall authorise the holder of the said licence to sell liquors in the house mentioned in the indorsement during the unexpired portion of the term for which the said licence was granted in the same manner and upon the same terms and conditions as he might do in the premises to which the licence originally applied; any bond or security which such holder of a licence may have given for any purpose in relation to such licence shall apply to the house or place to which removal is authorised; but such permission shall not entitle him to sell at any other than such one place. C. O. 89, s. 55, and 1900, c. 32, s. 1. Effect of such permission

**56.** In all cases provided for in sections 50 to 55 hereof, both inclusive, of transfer, removal or change in a licence application shall be made in the same manner as if for an original application for a licence; the amount of money to be sent with Application for transfer or removal said application shall be the sum of $10; the *attorney general* upon receiving the application from the Territorial treasurer shall proceed as in cases where persons apply at other than the regular time for licences and the same additional fees must be paid:

**Proviso**

Provided nevertheless that if within the time limited for protest no protest has been received by the *attorney general* and he is satisfied in other respects that the application should be granted it shall not be necessary for the board to hold a meeting or make a recommendation but the application may be granted upon the authority of the *attorney general* alone. C. O. 89. s. 56, and 1900, c. 32, s. 1.

### LICENCES IMPROPERLY OBTAINED.

**Powers of judge where license improperly obtained**

**57.** If within sixty days from the granting of a licence or a transfer of a licence any person deposits with the clerk of the supreme court for the judicial district wherein the licensed premised are situated $10 as security for costs together with a complaint (verified by affidavit) that the said licence or transfer has been obtained by fraud or in violation of any of the provisions respecting licences, on application the judge may by means of an originating summons investigate and summarily hear and dispose of the complaint and may direct the cancellation of the licence or dismiss the complaint and award costs in the same way as costs are awarded in proceedings in the supreme court. C. O. 89, s. 57.

### RECORDS AND REPORT OF ATTORNEY GENERAL.

**License register**

**58.** *The attorney general shall keep a register to be known as the register of licences in which shall be recorded:*

(*a*) *All applications made to the commissioners, with the names of the applicants, the nature of the applications, the premises in respect of which the applications are made, the date on which the applications were heard and the manner in which the same were disposed of, including in case of refusal the cause or causes thereof;*

(*b*) *All licences granted with the names of the licencees and of the sureties required to be furnished;*

(*c*) *All forfeitures of licences, disqualification of licencees and convictions against licencees.* 1900, c. 32, s. 11.

**59.** *The attorney general shall report annually to the Legislative Assembly within the first fifteen days of the session thereof furnishing:* Report to Assembly

(*a*) *A statement of the number and description of licences and the names of applicants to whom licences were granted during the year;*

(*b*) *The names of applicants to whom licences were not granted;*

(*c*) *Any other particulars required to be entered in the register of licences;*

(*d*) *A list of prosecutions for infraction of this Ordinance and the result of the same;*

(*e*) *Any general remarks which he may deem necessary concerning the working of the liquor license law.* 1900, c. 32, s. 12.

## REGULATIONS. PROHIBITIONS AND PENALTIES.

**60.** All licences shall be constantly and conspicuously exposed in the warehouses and shops, in the bar rooms of hotels or other places of public entertainment to which the licences respectively relate, under a penalty of $5 for every day's wilful or negligent omission so to expose them, and in default of payment one week's imprisonment for every day of such omission. C. O. 89, s. 60. License to be exposed

**61.** Every person keeping a licensed hotel or wholesale liquor store shall during the continuance in force of such licence exhibit and keep exhibited on the outside and over a front door of the licensed premises in large letters the words "licensed to sell spirituous or fermented liquors." Placard over door

(2) *Every holder of a hotel licence shall also keep exhibited on the outside and over a front door of the bar room and in some conspicuous place in the bar room a notice printed in large letters in the following words: "This bar room is required "to be closed from the hour of 7 o'clock p.m. on Saturdays to "the hour of 7 o'clock a.m. on the Monday following and on "other days of the week from the hour of 11.30 o'clock p.m. to "the hour of 6 o'clock a.m. of the following day."* C. O. 89, s. 61, and 1901, c. 33, s. 8. Notice of hours for sale

**62.** No payment of wages to any workman or other person shall be made on any licensed premises except by the licencee to his ordinary servants or employees; any such payment made Payment of wages on licensed premises in contravention of this section shall not operate to discharge the debt of the employer in respect of such wages to such workman or other person. C. O. 89, s. 62.

**One bar only**

**63.** Not more than one bar shall be kept in any house or premises licensed under this Ordinance. C. O. 89, s. 63.

**Hours for sale of liquor**

**64.** In all places where intoxicating liquors are licensed to be sold by retail no sale or other disposal of liquors shall take place therein or on the premises thereof, or out of or from the same to any person or persons whomsoever save as hereinafter provided from or after the hour of seven of the clock on Saturday night till seven of the clock on Monday morning thereafter, nor from or after the hour of half-past eleven o'clock at night until six o'clock the following morning on the other nights of the week as respects all places where liquors are licensed to be sold by wholesale no sale or other disposal of liquors shall take place therein or on the premises thereof or from or out of the same to any person or persons whomsoever nor shall the premises in respect of which the licence is issued be kept open from or after the hour of seven o'clock on Saturday night until seven o'clock on Monday morning thereafter and from eight o'clock at night until seven o'clock in the morning on the other nights of the week save and except as to both retail and wholesale places in cases where a requisition for medical purposes signed by a licensed medical practitioner or by a licensed druggist or by a justice of the peace is furnished the licencee or his agent; nor shall any liquor whether sold or not be permitted or allowed to be drunk in any such places during the time prohibited by this Ordinance for the sale of the same:

**Exception**

**Proviso**

Provided that in hotels and restaurants compelled by law to give meals liquor may be sold during meals on Sundays to the guests *bona fide* residing or boarding in such houses between the hours of one and three and five and seven in the afternoon respectively to be drunk at their meals at the table; but this provision shall not permit the furnishing of liquor at the bar or place where liquor is usually sold in such houses.

**No sale during election or during times when bar should be closed**

(2) No sale or other disposal of liquor shall take place in any licensed place within the limits of a polling subdivison on any polling day for the election of a member of the Legislative Assembly or any municipal elections or any day in which a vote in accordance with the provisions of this Ordinance * * * is being taken from or after the hour of six o'clock in the morning of the said day until the close of the poll; or at or

during any time when by law in force in the Territories or by bylaw in force in the municipality wherever such place or places is or are or may be situated the same or the bar room or bar rooms thereof ought to be kept closed.

**Persons found in bar rooms in prohibited hours**

(3) Every person found in a bar room or a room where liquors are usually sold upon licensed premises at any time between the hours of seven of the clock on Saturday night and seven of the clock on the Monday morning thereafter or between the hours of half-past eleven of the clock at night and six of the clock the following morning on the other nights of the week shall be liable on summary conviction thereof to a fine of $10 and costs of prosecution and in default of payment thereof forthwith to imprisonment for ten days:

**Penalty**

**Proviso**

Provided that nothing in this section shall prevent an hotel keeper, his wife or regular employee from entering such bar room or room for the sole purpose of procuring liquor ordered by guests to be used with their meals on Sunday as allowed by the provisions of this section.

**Bar rooms to be closed during prohibited hours**

(4) Except as is herein otherwise provided no bar room or room in which liquors are usually sold in a licensed hotel shall be kept open at any time during the hours when the sale or other disposal of liquors is prohibited *and the presence in the bar room of any person not a member of the licencee's family or a regular employee of the licencee shall be* prima facie *evidence of the keeping open of such bar room.*

**Contravention by servant**

(5) Any contravention of the provisions of this section by a servant, agent or employee of a licencee shall be presumed to be the act of such licencee.

**Sale at banquet**

(6) *The sale or other disposal of liquor by a licencee at any* bona fide *banquet or supper being held in his licensed premises to any person in actual attendance at such banquet or supper at any time before one o'clock a.m. shall not be deemed to be a violation of the provisions of this section provided the said licencee has obtained the written permission of a licence commissioner for the licence district in which his licensed premises are situate for such sale or other disposal.* C. O. 89, s. 64, and 1903, Sess. 1, c. 26, ss. 7, 8 and 9.

**Bar room connection with other portion of licensed premises**

**65.** There shall be no connection between the bar room and other portion of the premises in any licensed hotel by means of windows, wickets, elevators, chutes, openings of any kind or sliding, folding or other kind of doors except doors opening directly out of *and on the same side of* the bar room into the same public hall or office of the licensed premises and a door or trap leading from behind the bar into the cellar. C. O. 89, s. 65, and 1901, c. 33, s. 10.

View into bar room not to be obstructed

**66.** In any licensed hotel full view of the interior of the bar room shall not during prohibited hours be obstructed by means of screens, shades, blinds or frosted, ground or coloured windows. C. O. 89, s. 66.

Billiard rooms, etc.

**67.** No billiard, pool or other tables shall be permitted in the bar room of any licensed hotel; no liquor shall be sold or supplied in any room in any licensed premises set apart or used for such games.

(2) *No musical instruments, dancing or other form of attraction shall be permitted in such bar room.* C. O. 89, s. 67, and 1903, Sess. 1, c. 26, s. 10.

Conditions regarding premises

**68.** No licence shall be granted in respect of any premises in which the provisions of section 65 hereof have not been complied with. C. O. 89, s. 68.

Refusal to supply meals, etc.

**69.** Every licensed hotel keeper who either personally or through anyone acting on his behalf except for some valid reason refuses to supply lodging, meals or accommodation to travellers at a reasonable rate shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $20 and in default of payment one month's imprisonment. C. O. 89, s. 69.

Penalty for receiving pledge or payment other than money for liquor

**70.** If any hotel keeper licensed under this Ordinance receives in payment or as a pledge for any liquor supplied in or from his licensed premises anything except current money or the debtor's own cheque on a bank or banker he shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $20; and the person giving anything as a pledge as aforesaid may recover the same or the value thereof in any court of competent jurisdiction notwithstanding such pledge; no hotel keeper shall receive payment in advance for any liquor to be supplied and the amount of any payment so made in advance may be recovered notwithstanding that any liquor may have been supplied subsequently to such payment. C. O. 89, s. 70.

Payment for liquor to be supplied

Bartering or receiving pawn for liquor

**71.** Any licencee who purchases from any other person anything either by way of sale or barter directly or indirectly the consideration for which in whole or in part is any intoxicating liquor or the price thereof or receives from any person any goods in pawn for liquor shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty of $20 and in default of payment forthwith after conviction to imprisonment for any term not exceeding one month and such purchase, or pledge shall be absolutely void and the property so sold or pledged may be recovered by the seller or pledgor by civil process:

Proviso

Provided always that none of the provisions of this section shall apply to transactions between parties holding respectively wholesale and retail licences under the provisions of this Ordinance. C. O. 89, s. 71.

Gambling, disorderly conduct, etc. prohibited

**72.** Any licencee who permits gambling, drunkenness, or any violent, quarrelsome, riotous or disorderly conduct to take place on his premises, or sells or delivers any intoxicating liquor to any drunken person, or permits and suffers any drunken person to consume any intoxicating liquor on his premises, or permits or suffers persons of notoriously bad character to assemble or meet on his premises shall (in addition to any other punishment provided by law) be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $25 nor more than $50, and in default of payment forthwith after conviction to not less than one nor more than two months' imprisonment. C. O. 89, s. 72.

Games of chance, etc., prohibited

**73.** Every description of gaming, playing at cards, dice or any game of chance, with betting or with a view to determine as to who shall pay for any liquor consumed or to be consumed, is hereby strictly forbidden and prohibited in any licensed premises in the Territories, and any proprietor, owner or licencee of any such place allowing any description of gaming as aforesaid therein, and any person found in any such place engaged in any description of gaming as aforesaid, shall be guilty of an offence and on summary conviction thereof be liable to a fine of not less than $20 nor more than $50 for every such offence, and in case of default of payment forthwith after conviction to be imprisoned for a term not less than one month nor more than two months.

Arrest on view

(2) Any proprietor, owner or licencee of any such place allowing any description of gaming as aforesaid thereon and any person in any such place engaged in any description of gaming as aforesaid shall be liable to be arrested on view and brought before any justice and dealt with as above provided.

(3) *The existence of dice or other appliances for gambling in any bar room in any licensed premises shall be* prima facie *evidence of an infraction of the provisions of this section.* C. O. 89, s. 73, and 1901, c. 33, s. 10.

**Penalty for harbouring constable**

74. Any licencee who knowingly harbours or knowingly suffers to remain on his premises any constable during any part of the time for such constable to be on duty (unless for the purpose of keeping or restoring order or in the execution of his duty) or supplies any liquor by way of gift or sale to any constable on duty unless by authority of some superior officer of such constable or bribes or attempts to bribe any constable shall be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $25 nor more than $50 and in default of payment forthwith after conviction to not less than one nor more than two months' imprisonment. C. O. 89, s. 74.

**Intoxicated persons may be refused admittance or expelled**

75. Any licencee may refuse to admit to the premises in respect of which his licence is granted any person who is intoxicated and may refuse to admit to and may turn out of the premises any person who is violent or quarrelsome or disorderly and any person whose presence on his premises would subject the licencee to a penalty under this Ordinance; and any such person who upon being requested in pursuance of this section by such licencee or his agent or servant or any constable to quit such premises refuses or fails to do so shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $5 and in default of payment forthwith after conviction to one week's imprisonment; and all constables are required on demand of such licencee, his agent or servant to expel or assist in expelling every such person from such premises and may use such force as may be necessary for that purpose. C. O. 89, s. 75.

**Penalty**

**Communication between licensed premises and unlicensed premises used for public entertainment prohibited**

76. Every person who makes or uses or allows to be made or used any internal communication between any licensed premises and any unlicensed premises which are used for public entertainment or resort or as a refreshment house shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 for every day during which such communication remains open and in default of payment forthwith after conviction for every day as aforesaid to one month's imprisonment. C. O. 89, s. 76.

**Penalty for**

**Liquor supplied to minors prohibited**

77. Any licencee who allows to be supplied in his licensed premises by purchase or otherwise any description whatever of liquor to any person under the age of eighteen years, of either sex, shall as well as the person who actually gives or supplies the liquor be guilty of an offence and on summary conviction thereof be liable to pay a penalty of $25 for a first offence and

**Penalty for**

in default of payment forthwith after conviction to one month's imprisonment; and for a second like offence to a penalty of $50 with absolute forfeiture of licence and in default of payment forthwith after conviction to two months' imprisonment and absolute forfeiture of licence.

**Females serving liquor**

(2) Any hotel licencee who knowingly allows any male under the age of eighteen years or any female to dispose of any form of intoxicants on the premises for which such licence is granted shall be liable to all the penalties provided for in this section, provided that this shall not apply to female licencees or the wife of a licencee. C. O. 89, s. 77.

**Proviso**

**Charge for liquors in quantity less than one half gallon cannot be recovered**

**78.** No person shall recover or be allowed to set off any charge for intoxicating liquors in any quantity less than one *half* gallon delivered at one and the same time; and specialties, bills, notes, agreements or accounts stated, given or made in whole or in part for or to secure any such charge shall be void; but nothing herein contained shall extend to any charge made by an hotel licencee against any boarder or traveller; it shall not be necessary for any person taking advantage of this section to plead the same specially but he may raise the objection at any stage of the case.

**Exception**

(2) No person resident within one mile of such hotel or licensed premises shall be considered a traveller within the meaning of this section. C. O. 89, s. 78, and 1903, Sess. 1, c. 26, s. 11.

**Suicide or accidental death while intoxicated, person supplying liquor liable to action**

**79.** Whenever in any hotel or other house or place where intoxicating liquors of any kind are sold, whether legally or illegally, any person has drunk to excess of intoxicating liquor of any kind therein furnished to him and while in a state of intoxication from such drinking has come to his death by suicide or drowning or perishing from cold or other accident occasioned by such intoxication the person whether the keeper or employee of such hotel, house or other place who delivered to such person the liquor whereby such intoxication was caused shall be liable to an action as for personal wrong at the suit of the legal representatives of the deceased person if such action be brought within three months after such decease but not otherwise; and by such action may recover such sums not less than $100 nor more than $1,000 as may therein be assessed by the court or judge or jury as damages; the keeper of such hotel or other house or place and also any other person or persons who for him or in his employ delivered to such person the liquor whereby such intoxication was caused shall be jointly and severally liable to an action as for personal wrong at the suit of the legal representatives of the deceased person if such action be brought within three months after such decease but not otherwise and such legal representatives may bring either a joint and several action against them or a several action against any or either of them and by such action or actions may recover such sums not less than $100 nor more than $1,000 in the aggregate of any such actions as may therein be assessed as damages; and in the event of final judgment being recovered against any licencee in any action under this section the licence of such licencee shall thereupon be forfeited and thereafter be null and void. C. O. 89, s. 79.

Liquor consumed on premises of wholesale licensee, liquor sold to illicit dealer

**80.** Any person on summary conviction of any of the following offences shall be liable to a penalty of $50 and in default of payment forthwith after conviction to two months' imprisonment:

1. * * * * * * * * *

2. Any person who sells liquor by wholesale to any person who he knows or has reason to believe is selling liquor without a licence;

3. Any licencee licensed to sell liquors not to be consumed on the premises who takes or carries or employs or suffers any other person to take or carry any liquor out of or from the premises of such licencee for the purpose of being sold on his account or for his benefit or profit and of being consumed in any other house or in any tent, shed or other building of any kind whatever belonging to such licencee or hired, used or occupied by him.

Evidence in proceeding

(2) In any proceeding under this section it shall not be necessary to prove that the premises or place or places to which such liquor is taken to be drunk belonged to, were hired, used or occupied by the seller if proof be given to the satisfaction of the court hearing the case that such liquor was taken to be consumed thereon or therein with intent to evade the conditions of his licence. C. O. 89, s. 80, and 1901, c. 33, s. 11.

Sale without license prohibited

**81.** No person shall sell by wholesale or by retail or shall keep or have in any house or other place whatsoever any liquor for the purpose of selling, bartering or trading therein without having first obtained a licence authorising him so to do; and any sale or other disposal of liquor by any association, body of persons or club not incorporated by special Ordinance of the Territories or by the servant or agent thereof to the members thereof or to any other person without such licence shall be a violation of section 85 of this Ordinance:

Proviso Chemists and druggists may sell for medicinal purposes

Provided that the provisions of this section shall not prevent any chemist or druggist duly registered as such from keeping, having and, subject to the further provisions of this section, selling liquors for strictly medicinal or mechanical purposes; but no such sale for medicinal purposes shall be made in packages of more than six ounces at any one time except under certificate from a registered medical practitioner; and it shall be the duty of every such chemist or druggist to record in a book to be open to the inspection of the board or inspectors every sale or other disposal by him of liquor; and such record shall show as to every such sale or disposal the time when, the person to whom and the quantity in which such liquor is sold and the certificate of the medical practitioner, if any; and in default of sale or disposal being so placed on record every such sale or disposal shall *prima facie* be held to be in contravention of the provisions contained in this section:

Proviso

Provided that any wholesale druggist may without licence sell any alcohol wood spirit:

Provided further that any wholesale druggist may without licence sell to any legally qualified druggist or physician any kind of alcohol not exceeding ten gallons and any kind of wine or brandy not exceeding five gallons at any one time:

Provided further that any qualified druggist may sell to any person any combination of alcohol with any drug made according to any formula of the British or United States pharmacopoeia:

Provided always that no person authorised to sell liquors as provided by this section shall allow any liquors sold by him or on his premises to be consumed within his shop or the premises of which such shop forms part.

Penalty for evading Ordinance

(2) Any chemist or druggist who colourably for medicinal purposes sells liquor to be consumed by any person as a beverage shall on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C. O. 89, s. 81.

Penalty for breach section 64

**82.** *Violation of any of the provisions of subsections (1), (2) and (4) of section 64 hereof shall be an offence for which the person violating shall be liable on summary conviction:*

*For the first offence to a penalty of not less than $50 nor more than $100 and in default of payment forthwith after conviction to not less than two months' nor more than four months' imprisonment:*

*For the second or any subsequent offence to a penalty of not less than $100 nor more than $200 with absolute* *forfeiture of licence and in default of payment forthwith after conviction to not less than four months' nor more than six months' imprisonment with absolute forfeiture of licence or to imprisonment for not less than one month nor more than six months with absolute forfeiture of licence or to both fine and imprisonment with absolute forfeiture of licence.* 1903, Sess. 1, c. 26, s. 12.

**Penalty for medical practitioner evading Ordinance**

**83.** Any medical practitioner who colourably for medical purposes gives a certificate or requisition without which liquor could not lawfully be obtained in quantities of more than six ounces, to enable or for the purpose of enabling any person to obtain liquor to drink as a beverage shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C. O. 89, s. 83.

**Allowing liquor to be consumed on premises not licensed therefor**

**84.** Any person not licensed to sell liquor to be drunk on the premises who allows or permits liquor purchased from him to be drunk on the licensed premises shall be guilty of an offence and on summary conviction thereof (unless it is made to appear to the justice before whom the offence is charged that such drinking was without his privity or consent) shall be liable *on summary conviction to a penalty of not less than $50 nor more than $100 with absolute forfeiture of licence; and in default of payment forthwith after conviction to not less than two months' nor more than four months' imprisonment with absolute forfeiture of licence.*

(2) For the purpose of this section the expression "premises where the same is sold" shall include any premises adjoining or near the premises where the liquor is sold if belonging to the seller of the liquor or under his control or used by his permission.

(3) Any purchaser of liquors in a house or premises to which a wholesale licence applies who drinks or causes any one to drink or allows liquor to be drunk in the premises where the same has been purchased shall be liable to the penalty and punishment set forth in this section. C. O. 89, s. 84, and 1901, c. 33, s. 13.

**Penalty for selling liquor without license**

**85.** *Any person who sells or barters liquor of any kind without the licence therefor by law required shall be guilty of an offence and on summary conviction thereof shall be liable:*

*For the first offence to a penalty of not less than $50 nor more than $250 and in default of payment forthwith after conviction to not less than two months' nor more than six months' imprisonment;*

*For a second offence to a penalty of not less than $200 nor more than $500 and in default of payment forthwith after conviction to not less than three months' nor more than twelve months' imprisonment or to imprisonment for not less than three months nor more than twelve months, or to both fine and imprisonment;*

*For a third or subsequent offence to a penalty of not less than $500 nor more than $1,000 and in default of payment forthwith after conviction to not less than nine months' nor more than two years' imprisonment and to imprisonment for not less than six months nor more than two years.* 1903, Sess. 1, c. 26, s. 13.

**False pretenses to obtain liquor**

**86.** Every person who by falsely representing himself to be a lodger or traveller buys or obtains or attempts to buy or obtain at any premises any liquor during the period when such premises are required to be closed as to the sale thereof in pursuance of this Ordinance shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty of $20 and in default of payment forthwith after conviction to one month's imprisonment. C. O. 89, s. 86.

**Inspector shall not receive bribe**

**87.** *No inspector* * * * shall either directly or indirectly receive, take or have any money whatsoever for any licence, report, matter or thing connected with or relating to any grant of any licence or receive, take or have any note, security or promise for the payment of any such money or any part thereof from any person or persons whatsoever; and any person or persons guilty of or concerned in or party to any act, matter or thing contrary to the provisions of this section shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $200 and in default of payment forthwith after conviction to imprisonment for three months. C. O. 89, s. 87, and 1900, c. 32, s. 13.

**Penalty**

**Penalty for causing illegal issue of license**

**88.** Any commissioner, inspector, officer or other person who contrary to the provisions of this Ordinance knowingly issues or causes or procures to be issued any liquor licence or a certificate therefor shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $250 and in default of payment forthwith after conviction to imprisonment for six months. C. O. 89, s. 88.

Penalty for compounding offences

**89.** Any person who having or being charged with having violated any of the provisions of this Ordinance, compromises, compounds or settles or offers or attempts to compromise, compound or settle the offence with any person or persons with the view of preventing any complaint being made in respect thereof or, if a complaint has been made, with the view of getting rid of such complaint or of stopping or having the same dismissed for want of prosecution or otherwise shall be guilty of an offence and on summary conviction thereof be liable to incur a penalty of $100 and in default of payment forthwith after conviction to imprisonment for two months. C. O. 89, s. 89.

Penalty for being party to composition

**90.** Every person who is concerned in or is a party to the compromise, composition or settlement mentioned in the next preceding section shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to one month's imprisonment. C. O. 89, s. 90.

Penalty for assisting to avoid arrest

**91.** Any one knowing or having reason to believe that an order to commit to gaol has been issued against any person under this Ordinance who prevents the arrest of such person or procures or facilitates by any act or counsel or in any other manner whatsoever his avoidance of arrest or who provides such person with the means of avoiding arrest shall be guilty of an offence and on summary conviction thereof be liable to a penalty of $50 and in default of payment forthwith after conviction to two months' imprisonment in addition to any other penalty provided by law. C. O. 89, s. 91.

Convictions operating as forfeiture

**92.** Every second conviction for any offence against the provisions of sections 77 and 80 hereof, and every conviction for an offence against the provisions of the said sections when there has been a previous conviction for an offence against the provisions of any other of them, and every third conviction for an offence against the provisions of this Ordinance or any of them shall operate as a forfeiture of the licence of the offender when not otherwise provided. C. O. 89, s. 92.

Penalty for offences not specially provided for

**93.** Every person who shall violate any of the provisions of this Ordinance for which violation no penalty is herein specially provided shall be guilty of an offence and on summary conviction thereof be liable to a penalty of not less than $50 nor more than $100 and in default of payment forthwith after conviction to imprisonment for not less than one month nor more than four months.

(2) The licence of any licencee convicted of any violation of the provisions of section 94 of an Act of the Parliament of Canada intituled *An Act respecting Indians* and any amendments thereto shall upon such conviction be forfeited and thereafter be null and void. C. O. 89, s. 93.

**Contravention of Ordinance by employee of licensee**

**94.** Any contravention of any of the provisions of this Ordinance by any servant, agent or employee of a licencee shall be presumed to be the act of such licencee but except in the case of prosecutions under section 64 hereof such presumption may be rebutted by proof of explicit instructions to the contrary by such licencee, and any such servant, agent or employee contravening any of the provisions of this Ordinance and disobeying any such explicit instructions shall be liable on summary conviction to imprisonment for not less than ten days or more than three months without the option of a fine. C. O. 89, s. 94.

**Occupant of premises liable**

**95.** Except as provided in the preceding section the occupant of any house, shop, room or other place in which any sale, barter or traffic of liquors, or any matter, act or thing in contravention of any of the provisions of this Ordinance has taken place shall be personally liable to the penalty prescribed for such offence, as the case may be, notwithstanding such sale, barter or traffic be made *or other matter, act or thing to be done* by some other person who cannot be proved to have so acted under or by the directions of such occupant; and proof of the fact of such sale, barter or traffic or other act, matter or thing by such person in the employ of such occupant or who is suffered to remain in or upon the premises of such occupant or to act in any way for such occupant shall be conclusive evidence that such sale, barter or traffic or other act, matter or thing took place with the authority and by the direction of such occupant. C. O. 89, s. 95, and 1901, c. 33, s. 14.

**Failure to post synopsis of Ordinance**

**96.** Every licencee failing to post up a synopsis of this Ordinance on being requested to do so by the inspector shall be guilty of an offence and on summary conviction thereof be liable to forfeit $25; such synopsis shall be printed in such languages as the board may direct. C. O. 89, s. 96.

## POWERS OF INSPECTORS AND OFFICERS.

**Officers may enter and search premises**

**97.** Any police officer, policeman or constable or inspector of licences shall for the purpose of preventing or detecting the violation of any of the provisions of this Ordinance which it is his duty to enforce, at any time have the right to enter into any and every part of any hotel or other place wherein refreshments or liquors are sold or reputed to be sold whether under licence or not *or where he believes that liquors are kept for sale contrary to the provisions of this Ordinance* and to make searches in every part thereof and of the premises connected therewith as he may think necessary for the purpose aforesaid; *and for such purpose may with such assistance as he deems expedient, break open any door, lock or fastening of such premises or any part thereof or of any closet, cupboard, box or other receptacle which might contain liquor.*

**Penalty for refusing admittance to officers**

(2) Every person being therein or having charge thereof who refuses or fails to admit such police officer, policeman, constable or inspector demanding to enter in pursuance of this section in the execution of his duty or who obstructs or attempts to obstruct the entry of such police officer, policeman, constable or inspector or any such searches as aforesaid shall be guilty of an offence and on summary conviction thereof be liable to a fine of $50 and in default of payment forthwith after conviction to one month's imprisonment in addition to any other punishment in such case provided. C. O. 89, s. 97; 1900, c. 32, s. 14, and 1901, c. 33, s. 15.

**Search warrant**

**98.** Any justice if satisfied by information on the oath of any police officer, policeman, constable or inspector that there is reasonable ground for belief that any spirituous or fermented liquor is being kept for sale or disposal contrary to the provisions of this Ordinance in any unlicensed house or place within his jurisdiction may in his discretion grant a warrant under his hand by virtue whereof it shall be lawful for the person named in such warrant at any time or times within ten days from the date thereof to enter if need be by force the place named in the warrant and every part thereof and of the premises connected therewith and to examine the same and search for liquor therein; and for such purpose such person may if necessary with such assistance as he deems expedient break open any door, lock or fastenings of such premises or any part thereof or of any closet, cupboard, box or other article suspected to contain any such liquor; and in the event of any liquor being so found unlawfully kept on the said premises the occupant thereof shall until the contrary is proved be deemed to have kept such liquor for the purposes of sale contrary to the provisions of section 81 of this Ordinance and may be arrested by such officer or person having the warrant for search as aforesaid and any person so arrested shall be liable to be charged and dealt with as provided under this Ordinance and may be fined or imprisoned therefor as provided in section 93 of this Ordinance.

**Seizure and forfeiture of liquor and vessels**

(2) When any inspector, policeman, constable or officer in making or attempting to make any search under or in pursuance of the authority conferred by section 97 of this Ordinance or under the warrant mentioned in this section finds in an unlicensed house or place any liquor which in his opinion is unlawfully kept for sale or disposal contrary to this Ordinance he may forthwith seize and remove the same and the vessels in which the same is kept and upon the conviction of the occupant of such house or place or any other person for keeping liquor for sale in such house or place without licence the justice making such conviction may in and by the said conviction or by a separate and subsequent order declare the said liquor and vessels or any part thereof to be forfeited to her Majesty to be sold or otherwise disposed of as the attorney general may direct; and the proceeds of any such sale shall be forthwith transmitted to the Territorial treasurer to form part of the general revenue fund. C. O. 89, s. 98.

**Authority of police officers, policemen and constables**

**99.** Police officers, policemen and constables shall have full authority to enforce any of the provisions of this Ordinance. C. O. 89, s. 99.

PROSECUTIONS.

**Time for prosecutions**

**100.** Prosecutions for offences created by this Ordinance shall be instituted within six months after the commission of the alleged offence. C. O. 89, s. 100.

**Description of offences**

**Negativing exemptions**

**101.** The description of any offence under this Ordinance in the words of this Ordinance or in words of like effect shall be sufficient in law; and any exception, exemption, provision, excuse or qualification, whether it does or does not accompany the description of the offence in this Ordinance, may be proved by the defendant but need not be specified or negatived in the information; but if it be so specified or negatived no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant. C. O. 89, s. 101.

**Several offences charged in one complaint**

**102.** Several charges of contravention of this Ordinance commmitted by the same person may be included in one and the same information or complaint; provided that such information and complaint and the summons issued thereon contains specifically the time and place of each contravention. C. O. 89, s. 102.

**Describing offences in informations, etc.**

**103.** In describing the offences respecting the sale or other disposal of liquor or the keeping or the consumption of liquor in any information, summons, conviction, warrant or proceeding under this Ordinance it shall be sufficient to state the sale, disposal, keeping or consumption of liquor simply without stating the name or kind of such liquor or the price thereof or the name of any person to whom it was sold or disposed of or by whom it was consumed; and it shall not be necessary to state the quantity of liquor so sold, disposed of, kept or consumed, except in the case of offences where the quantity is essential, and then it shall be sufficient to allege the sale or disposal of more or less than such quantity as the case may require. C. O. 89, s. 103.

Forms

**104.** The forms set forth in schedule 2 to this Ordinance or any forms to the like effect, shall be sufficient in the cases thereby respectively provided for; and when no forms are prescribed by the said schedule they may be framed in accordance with Part LVIII of *The Criminal Code 1892*. C.O. 89, s. 104.

Proceedings where previous conviction charged

**105.** The proceedings upon informations for an offence against any of the provisions of this Ordinance, in a case where a previous conviction is charged, shall be as follows:

Charge for subsequent offence to be tried first

1. The justice shall in the first instance inquire concerning such subsequent offence only, and if the accused be found guilty thereof he shall then and not before be asked whether he was so previously convicted as alleged in the information and if he answers that he was so previously convicted he shall be sentenced accordingly; but if he denies that he was so previously convicted or does not answer such question, the justice shall then inquire concerning such previous conviction or convictions;

Proof of previous conviction

2. *Such previous conviction may be proved* prima facie *by the production of a certificate purporting to be under the hand of a convicting justice or the clerk of the court to whose office the conviction has been returned or the attorney general without proof of signature or official character and without proof of identity of the person charged with the person named in such certificate;*

Subsequent conviction if former quashed may be amended

3. In the event of any conviction for any second or subsequent offence becoming void or defective after the making thereof by reason of any previous conviction being set aside, quashed or otherwise rendered void the justice by whom such second or subsequent conviction was made shall summon the person convicted to appear at a time and place to be named and shall thereupon upon proof of the due service of such summons if such person fails to appear, or on his appearance, amend such second or subsequent conviction and adjudge such penalty or

punishment as might have been adjudged had such previous conviction never existed; and such amended conviction shall thereupon be held valid to all intents and purposes, as if it had been made in the first instance;

Convictions under s. 92

4. In case any person who has been convicted of a contravention of any provision of any of the sections of this Ordinance mentioned in section 92 hereof is afterwards convicted of an offence against any provision of any of the said sections such conviction shall be deemed a conviction for a second offence within the meaning of the said section and shall be dealt with and punished accordingly although the two convictions may have been under different sections. C. O. 89, s. 105, and 1903, Sess. 1, c. 26, s. 14.

Conviction for several offences

**106.** Convictions for several offences may be made under this Ordinance although such offences may have been committed on the same day; but the increased penalty or punishment hereinbefore imposed shall only be incurred or awarded in the case of offences committed on different days and after information laid for a first offence. C. O. 89, s. 106.

Commissioner or inspector not to act as J. P., etc.

**107.** No member of the board of licence commissioners or inspector of licences who is a justice shall try and adjudicate upon any complaint for an infraction of any of the provisions of this Ordinance committed within the Territorial limits for which he is a commissioner or inspector. C. O. 89, s. 107.

Record of conviction to be indorsed on license

**108.** Whenever a licencee is convicted of any offence against the provisions of this Ordinance a record thereof shall be indorsed on the licence of the person convicted and the following provisions shall have effect, that is to say:

Production of license

1. The justice before whom any licensed person is accused shall require such person to produce and deliver to him the licence under which such person carries on business and the summons shall state that such production will be required; *and refusal or neglect by the licencee to produce such licence when so required shall be treated as a refusal by a witness to produce a document when required so to do and punished accordingly;*

Indorsement

2. If such person is convicted the justice convicting shall cause the short particulars of such conviction and the penalty imposed to be indorsed on his licence before it is returned to the offender; and such record shall be *prima facie* evidence of such conviction where such is subsequently required;

Entry in register

3. The *attorney general* shall enter the particulars respecting such conviction or such of them as the case may require in the

register of licences kept by him under this Ordinance and all justices shall notify the *attorney general* in writing of any convictions they have made;

Where effect is forfeiture Attorney General to be notified

4. Where the conviction of any such person has the effect of causing the forfeiture of the licence or of disqualifying any person for the purposes of this Ordinance the licence shall be forwarded by the justice with notice of such forfeiture or disqualification to the *attorney general.* C. O. 89, s. 108, and 1900, c. 32, ss. 1 and 15.

Certificate of conviction

**109.** The justice on any conviction of a licencee for an offence against this Ordinance shall send forthwith to the *attorney general* a certificate of such conviction. C. O. 89, s. 109.

Costs allowed to justice

**110.** For the additional duties imposed by the two next preceding sections the justice shall be entitled to charge as costs in the proceedings the following sums:

1. For making up and forwarding certificate of conviction to the chief inspector the sum of fifty cents;

2. For recording the conviction on the licence the sum of fifty cents. C. O. 89, s. 110.

Third conviction forfeits license and disqualifies

**111.** When not otherwise provided a third conviction of a licencee for any violation or contravention of the provisions of this Ordinance shall *ipso facto* operate as a forfeiture of his licence and disqualify the person convicted from obtaining a licence for three years thereafter. C. O. 89, s. 111.

### EVIDENCE, ETC.

Certificate of Attorney General

**112.** In any prosecution or proceeding under this Ordinance in which proof is required respecting any licence or interdiction * * a certificate purporting to be under the hand of the *attorney general* shall be *prima facie* proof of the existence of such licence or interdiction * * and of the identity of the person to whom the licence was granted or transferred, or against whom the *interdiction* was made; and the production of such certificate shall be sufficient *prima facie* evidence of the facts therein stated and of the authority of the *attorney general* without any proof of his appointment or signature. C. O. 89, s. 112; 1900, c. 32, s. 1, and 1904, c. 14, s. 4.

Proof of regulations

**113.** Any regulation made by the board shall be sufficiently authenticated by being signed by them and a copy of such regulation written or printed and certified to be a true copy by them or one of them shall be deemed authentic and be received as *prima facie* evidence in any court of justice without proof of the signature or signatures unless it is specially pleaded or alleged that the signature or signatures to any such original resolution have been forged and evidence of such forgery has been adduced by the person accused sufficient in the opinion of the court to make the proving of the signature or signatures advisable. C. O. 89, s. 113.

Appliances of liquor trade evidence

**114.** Any house, shop, room or other place in which it is proved that there exists a bar, counter, beer pumps, kegs, jars, decanters, tumblers, glasses or any other appliances or preparations similar to those usually found in hotels and shops where liquors are accustomed to be sold or trafficked in shall be deemed to be a place in which liquors are kept or had for the purpose of being sold, bartered or traded in, in contravention of section 81 of this Ordinance unless the contrary is proved by the defendant in any prosecution; and the occupant of such house, shop, room or other place shall be taken to be the person who has or keeps therein such liquors for sale, traffic or barter therein. C. O. 89, s. 114.

Proof of contravention

**115.** In proving the sale or disposal, gratuitous or otherwise, or consumption of liquor, for the purposes of any proceeding relative to any offence under this Ordinance it shall not be necessary to show that any money actually passed or any liquor was actually consumed, if the justice or justices hearing the case is or are satisfied that a transaction in the nature of a sale or other disposal actually took place or that any consumption of liquor was about to take place; and proof of consumption or intended consumption of liquor on premises in respect to which a licence is required under this Ordinance by some person other than the occupier of the premises shall be evidence that such liquor was sold to the person consuming or being about to consume or carrying away the same as against the occupant of the said premises. C. O. 89, s. 115.

Precise description of liquor unnecessary

**116.** In any prosecution under this Ordinance for the sale or other disposal of liquor without the licence required by law it shall not be necessary that any witness should depose directly to the precise description of the liquor sold or bartered or the precise consideration therefor. C. O. 89, s. 116.

What *prima facie* evidence of sale

**117.** The fact of any person not being a licensee keeping up any sign, writing, painting or other mark in or near to his house or premises or having such house fitted up with a bar or other place containing bottles or casks displayed so as to induce a reasonable belief that such house or premises is or are licensed for the sale of any liquor or that liquor is sold or served therein or that there is on such premises more liquor than is reasonably required for the persons residing therein shall be deemed *prima facie* evidence of the unlawful sale of liquor by such person. C. O. 89. s. 117.

Proof of licenses

**118.** The production of a licence which on its face purports to be duly issued and which were it duly issued would be a lawful authority to the defendant for such an act of omission shall be *prima facie* evidence that the defendant is so authorised; and in all cases the signature to and upon any instrument purporting to be a valid licence shall *prima facie* be taken to be genuine. C. O. 89, s. 118.

COSTS TO INSPECTORS.

Costs allowed inspector attending court as prosecutor or witness

**119.** In any prosecution under this Ordinance if an inspector attends the court as prosecutor or witness it shall be lawful for the justice trying the case to order the defendant in case of a conviction to pay to the inspector the following costs:

(*a*) In case he travels by railway or stage the fares actually to be paid by him;

(*b*) If he travels by a hired conveyance the sums actually required to be paid by him for conveyance, stabling and feed;

(*c*) If he travels in his own conveyance, ten cents per mile each way;

(*d*) To cover all other expenses, $2 per day actually occupied in going to, attending at and returning from the trial;

(*e*) In cases of adjournment at the instance of the defendant similar additional allowances to be made when the inspector is actually in attendance.

(2) The foregoing expenses shall be verified by the oath of the inspector.

(3) In case the person convicted does not pay such costs but is committed to gaol in default of payment the inspector shall be entitled to be paid the amount out of the general revenue fund.

(4) In cases of prosecution by inspectors when no conviction is procured, upon the written certificate of the justice trying

a case that there were reasonable grounds for the prosecution the inspector shall be entitled to be paid the said costs out of the general revenue fund.

(5) *Subsections 3 and 4 of* this section shall not apply to any inspector who receives a salary in lieu of all other charges and expenses. C. O. 89, s. 119 and 1901, c. 33, s. 16.

### INTERDICTION.

**Interdiction for intemperance procedure**

**120.** When complaint has been made to a justice that any person by excessive drinking of liquor misspends, wastes, or lessens his estate or greatly injures his health or endangers or interrupts the peace and happiness of his family the said justice shall institute proceedings under part LVIII of *The Criminal Code 1892* against such person and on finding the complaint well founded shall by order in form J appended hereto, forbid every licensed person in the Territories to sell him liquor for the space of *two years.* C. O. 89, s. 120 and 1900, c. 32, s. 16.

**Notice of interdiction to be given to licensees**

**121.** Immediately after granting the order provided for in the next preceding section the justice making the same shall transmit it together with the complaint and any evidence taken thereon before him to the *attorney general* who thereupon shall transmit by registered post or deliver a notice in form K appended hereto to all licencees whose premises are in the locality where such interdicted person lives.

**Penalty for supplying liquor to interdicted person**

(2) Whenever the sale of liquor to any such drunkard shall have been so prohibited any person with a knowledge of such prohibition who gives, sells, purchases or procures any liquor *to,* for or on behalf of such prohibited person or for his or her use *during the period of such prohibition* shall be guilty of an offence and upon summary conviction thereof shall be liable for every such offence to a penalty not less than $50 nor more than $200 and, in default of payment forthwith after conviction, to not less than two months' nor more than twelve months' imprisonment and if a licencee his licence shall be forfeited. C. O. 89, s. 121 and 1900, c. 32, ss. 1 and 17.

**Certain persons may require inspector to give interdiction notice**

**122.** The following person, viz.:

(*a*) Any husband or wife whose wife or husband has contracted the habit of drinking intoxicating liquors to excess;

(*b*) The person himself or the father, mother, brother, sister, curator, guardian or employer of any person who has contracted the habit of drinking intoxicating liquors to excess;

(*c*) The manager or person in charge of an asylum or hospital or other charitable institution in which any person who has contracted the habit of drinking intoxicating liquors to excess resides or is kept;

(*d*) The curator or committee of any lunatic; or

(*e*) The father, mother, brother or sister of the husband or wife of any person who has contracted the habit of drinking intoxicating liquors to excess;

may require *an inspector to give notice in writing in form L in schedule 1 of this Ordinance signed by him to all licencees whose premises are in the locality where such drunkard or lunatic resides not to sell, give or deliver or suffer to be sold, given or delivered to such drunkard or lunatic any intoxicating liquor for the period of one year from the date of such notice; and such inspector shall thereupon give such notices and shall forward to the person interdicted a notice in form M in schedule 1 of this Ordinance and shall at the same time forward to the attorney general a duplicate of such last named notice.*

**Examination of interdicted person as witness**

(2) In any prosecution or proceedings under this and the next preceding sections no interdicted person required to be examined as a witness shall be excused from being so examined or from answering any question put to him touching the sale or delivery to him of any liquor on the ground that his evidence will tend to criminate himself; and any such person so required to be examined as a witness who refuses to make oath accordingly or to answer any such question shall be subject to be dealt with in all respects as any person appearing as a witness before any justice or court and refusing without lawful cause or excuse to be sworn or give evidence may by law be dealt with and every person so required to be examined as a witness who upon such examination makes true disclosure to the best of his knowledge of all things as to which he is examined shall receive from the justice before whom such proceeding is had a certificate in writing to that effect and shall be freed from all prosecutions and from all penalties and punishments to which he has become liable for anything done before that time under the provisions of section 123 of this Ordinance in respect of the matters regarding which he has been examined; and any prosecution or proceeding pending or brought against such witness under the provisions of section 123 hereof in respect of

any matter regarding which he has been so examined shall be stayed upon the production and proof of such certificate if the said certificate states that such witness made a true disclosure in respect to all things as to which he was examined.

Penalty for supplying liquor to interdicted person

(3) Whenever the sale of liquor to any such drunkard shall have been so prohibited any person with a knowledge of such prohibition who gives, sells, purchases or procures *to*, for or on behalf of such prohibited person or for his or her use any liquor during the period of such prohibition shall be guilty of an offence and upon summary conviction thereof be liable to incur for every such offence a penalty not less than $50 nor more than $200 and in default of payment forthwith after conviction to not less than two months' nor more than twelve months' imprisonment and if a licencee his licence shall be forfeited. C. O. 89, s. 122; 1900, c. 32, s. 19; 1901, c. 33, s. 17, and 1904, c. 14, s. 5.

Interdicted person obtaining liquor

**123.** Any person to whom the sale of liquor has been prohibited under this Ordinance who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any intoxicating liquor shall be liable on summary conviction thereof to a fine of not more than $50 and in default of payment forthwith after conviction to imprisonment for not more than one month; in any prosecution under this section if intoxication on the part of the defendant be proved he shall be held to have been guilty of an offence and in any such case it shall not be necessary in any proceedings to state the name of the person from whom the liquor has been procured or by whom the sale, disposal, gift or delivery of liquor has been made. C. O. 89, s. 123.

Penalty

### OPTION CLAUSES.

Local option

**124.** No licence shall be granted by the board for the sale of liquors within the limits of a licence district when it shall have been made to appear to the board in manner hereinafter provided that a majority of three-fifths of the duly qualified electors therein, who have voted at a poll taken as hereinafter specified, have declared themselves to be in favour of a prohibition of the sale of intoxicating liquors in their district and against the issue of licences therefor.

Vote

Proceedings to be taken by member of board

(2) When a requisition is presented, accompanied by the sum of $100 to defray the expenses of the poll hereinafter specified to any member of the board from a number of the electors of any district (estimated as near as may be at at least one-fifth of

the total number of electors of the district, the basis of such estimate being the number of electors who voted at the last election of a member of the legislative assembly), requiring a vote to be taken as to whether or not such licence shall issue or be granted therein, it shall be the duty of such member upon the receipt of such requisition and the said sum of $100, to scrutinise the names of the electors attached to such requisition, and being satisfied that the names so attached are those of duly qualified electors within the district, and after the person or persons who have witnessed the signatures to the said requisition shall have sworn before a justice or a notary public:

Preparation of voters' list

(*a*) That he, the said witness, or they, the said witnesses, were present and saw the said electors sign the said requisition;

(*b*) That the said electors signed the said requisition within thirty days of the date of such affidavit; and

(*c*) That the signers constitute one-fifth of the electors of said district (estimated as above);

to command the taking of a poll of the said electors to ascertain whether or not such licences shall be granted; and the member of the board to whom the requisition has been presented shall by an order inserted in any newspaper published in the district, or if there be no newspaper published in such district, in the newspaper whose place of publication is nearest to the said district:

Returning officer

Firstly, appoint one of the inspectors for the district or other person to act as returning officer; and

Secondly, fix the places and day at and in which the poll shall be taken;

The places so fixed for the taking of the poll shall be as many in number and in such parts of the district as shall be sufficient in the opinion of the returning officer to record a full vote of the electors of the district; the returning officer shall thereupon give public notice of the taking of such poll in all the newspapers if any published within the district, the publication to be continued in at least one number of each of such papers each week for three successive weeks and also by posting up such notices or copies of the same at the post offices within such district; such poll shall be held in the month of October or November next ensuing on such day as shall be most convenient and not less than four weeks and not more than seven weeks from the date of the first publication of such notice, the said poll to be taken between the hours of nine a.m. and five p.m. of the day so appointed.

When poll to be taken

3. For the purpose of taking the poll the returning officer shall have all the powers for the preservation of the peace which are by law vested in the returning officer at any election of a member of the House of Commons of Canada and shall have all the powers of appointing and swearing constables. Powers of returning officer

4. The returning officer shall appoint a deputy returning officer for each polling place or polling division in the electoral district and shall furnish each deputy returning officer with all the necessary apparatus for taking such poll. The returning officer, the deputy returning officers and the clerks whom he shall employ shall subscribe and take the oath for the due and proper performance of the duties of their respective offices according to the form or forms which are prescribed in schedule Q of the Act of the Parliament of Canada which may be cited as *The Dominion Elections Act*, before the nearest justice of the peace or commissioner for taking affidavits and shall be subject to the same penalties for the neglect or the improper discharge of their respective duties as are imposed on similar officers in case of an election of a member of the House of Commons of Canada. Deputy returning officer and clerks

5. Every deputy returning officer shall administer to any elector if so required either or both of the following oaths: Deputy returning officer may administer oaths

No. 1.

You do swear that you are a male British subject; that you have attained the full age of twenty-one years; that you are not an unenfranchised Indian; and that you have resided in the North-West Territories for at least the twelve months and in this electoral district for at least the three months respectively immediately preceding this date. So help you God. Form of oath

No. 2.

You do swear that you have not received any money or other reward nor have you accepted any promise thereof for you directly or indirectly to induce you to vote at this election and that you have not before voted at this election either at this or any other polling station. So help you God. Form of oath

6. When any person presents himself for the purpose of voting the deputy returning officer shall cause his name, occupation and place of residence of such person to be forthwith entered on the voters' list and before the vote of such person is polled shall if so required by any candidate or agent administer to him either or both of the above mentioned oaths;

and the words "He has taken oath No. 1" *or*/and "oath No. 2" as the case may be, shall be written opposite the name of any person so sworn; and in case any person refuses to take such oath or oaths at such request he shall not be permitted to vote and the words "Refused to take oath No. 1" *or*/and "oath No. 2" as the case may be, shall be written opposite the name of any person so refusing.

Manner of conducting poll

(7) The vote of the electors shall be taken by ballot in the manner provided by *The Canada Temperance Act* and the several clauses thereof under the headings "The Poll," "Secretary," "Penalties," "Preservation of Peace," "General Provisions," "Prevention of Corrupt Practices," and "Penalties and Punishments Generally," shall be read and construed as a part of this Ordinance except where the same may be inconsistent with any of the provisions herein contained.

Proceedings at close of poll

(8) Immediately after the close of the poll the deputy returning officer shall in the presence of the poll clerk if there be one and such of the electors (of whom there shall not be more than two) as may be present open the ballot box and proceed as follows:

Examining ballot papers

1. He shall examine the ballot papers and reject all those on the back of which his initials are not found or on which anything appears by which the voter can be identified;

Noting objections

2. Take a note of any objection made by any elector present to any ballot paper found in the ballot box and decide on any question arising out of the objection;

Numbering objections

3. Number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be with his initials;

Written statement of number of votes

4. Count the ayes and noes from the ballot papers not rejected and make a written statement of the number of votes given for or against the granting of licences respectively and of the number of ballot papers rejected and not counted by him which statement shall be then signed by him and such other persons authorised to be present as may desire to sign the same;

Certificate of deputy returning officer

5. The deputy returning officer shall then certify under his own hand in full words on the voters' list the total number of persons who have voted at the polling place at which he is appointed and make up into separate packets:

(*a*) The statement of votes given for or against the granting of licences respectively and of the rejected ballot papers;

(*b*) The used ballot papers which have not been objected to and which have been counted;

(*c*) The ballot papers which have been objected to but which have been counted;

(*d*) The rejected ballot papers;

(*e*) The declined and cancelled ballot papers;

(*f*) The voters' list;

which packets closed up and sealed with his own seal and with the seal of any persons present desiring to affix their seals thereto and marked on the outside with a memorandum designating their respective contents shall by the deputy returning officer be transmitted forthwith to the returning officer.

**Declaration of result of poll**

(9) At the time and place fixed for declaring the result of the poll the returning officer shall open the packets containing the statement of votes given for or against the granting of licences respectively and there publicly declare the result.

**Ballot boxes, etc. disposition of**

(10) As soon as possible after the result has been announced the ballot boxes, packets and returns shall be deposited in the office of the board.

**Objections to proceedings**

(11) Objections to any act or proceeding under this section must be made in writing and filed in the office of the board within eight days after the ballot boxes, packets and returns are deposited in the said office; such objections shall be considered and adjudicated upon by the board at their next regular meeting; the decision of the board shall be final; and in the event of the objections being maintained and upon the payment of the sum of $100 by the objector or objectors they shall have the power to call another poll to be taken on the question whether or not licences shall be granted; in the event however of the said sum of $100 not being paid the poll objected to, even if the objections are sustained, shall remain valid to all intents and purposes and have full force and effect as if no objections had been found.

**Defect of form or irregularity**

(12) Nothing in this section shall be construed as permitting any of the proceedings had or papers filed or notices required therein to be vitiated or set aside by reason of any mere want or defect of form or any irregularity in the drawing up or execution of the same.

**When decision shall come into force**

(13) The decision of the three-fifths of the electors against the granting of licences as declared at the poll shall come into force in the then ensuing licence year beginning on the first day of July and such prohibition shall continue in full force

for such year and any future year until repealed; and each and all of the provisions of this section shall apply to the proceedings to be taken in reference to such appeal.

When new vote can be taken

(14) In case of any such vote being taken as provided in this section then no new vote other than that provided for in this section shall be taken for a period of three years thereafter.

Expenses to be defrayed out of general revenue fund

(15) The expenses for the taking of such vote over and above the sum of $100 provided to be paid under this section shall be defrayed out of the general revenue fund of the Territories, such expenses to be certifid to by the board for the district in which the vote has been taken; in the event however of the expenses of such vote being less than the $100 deposited as above, the balance thereof remaining after such expenses have been paid shall be returned to the parties depositing the same. C. O. 89. s. 124.

## PARTIAL REPEAL OF THE NORTH-WEST TERRITORIES ACT.

Sections 92 to 100 of N.W.T. Act repealed

**125.** Sections 92 to 100 both inclusive of *The North-West Territories Act,* chapter 50 of *The Revised Statues of Canada* together with all amendments thereto in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to chapter 22 of the Act of the Parliament of Canada 54-55 Victoria intituled *An Act to amend the Acts respecting the North-West Territories* are hereby repealed

Exception

except as to all that portion of Alberta north of a line drawn as follows: Commencing at the point of intersection of the western boundary of Alberta by the line between townships numbered fifty-seven and fifty-eight thence east to the western boundary of range twenty-six west of the fourth meridian thence north along the western boundary of the said range twenty-six to the line between townships numbered sixty-four and sixty-five and thence east along the said line to the eastern boundary of Alberta, and except as to townships 57 and 58 in ranges 9 and 10 west of the fourth meridian in the Dominion lands system of survey; and it is declared that as to the said portions of the Territories the said sections of *The North-West Territories Act* remain in full force and effect:

Proclamation to bring into effect prohibitory clauses of N.W.T. Act

*Provided that the Lieutenant Governor may by proclamation declare the provisions of the said sections 92 to 100 to be in force from a day to be mentioned in said proclamation in any part of that portion of the Territories specified in this section and thereupon the provisions of the said sections 92 to 100 shall be deemed to be re-enacted from the day so mentioned in respect of that part of the Territories specified in the said proclamation.* C. O. 89, s. 125 and 1903, Sess. 1, c. 26, s. 15

MEMBERS OF ASSEMBLY.

**126.** No member of the Legislative Assembly except he be a licencee shall be a party to any bond to be given under this Ordinance nor shall he be a party to any petition under this Ordinance. C. O. 89, s. 126. Members of Legislative Assembly

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## SCHEDULE 1.

### FORM A.

(*Section 28.*)

To the Licence Commissioners:

The petition of the undersigned humbly sheweth:

That your petitioner makes application for *a renewal of* (1) a (2) licence to sell intoxicating liquors in the building occupied by your petitioner at in the electoral district of , and described as (3)

Your petitioner hath deposited with the proper officer the sum of $10 the fee payable for such application and produces herewith receipt for same.

(4) [Your petitioner produces also the recommendation of at least ten out of the twenty nearest householders to the said also his own affidavit and the affidavit of two respectable neighbours to prove his qualification to obtain a licence.]

And your petitioner prays that a licence may be granted him accordingly.

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(1) *If a first application strike out the words in italics;*

(2) *Insert description of licence as hotel or wholesale;*

(3) *Here give full description of premises.*

(4) *The words in brackets to be left out where form B not required.* C. O. 89.

## FORM B.

(*Sections 28, 29, 34, 37, 38, 40.*)

We the undersigned hereby severally declare that is personally known to us, that we are at least ten of the twenty householders nearest in a direct line to the wherein the applicant intends to sell intoxicating liquors as specified in his petition; that we have read or heard read to us the whole of this recommendation before signing it; and we recommend the applicant as a fit and proper person to obtain a licence to sell intoxicating liquors in the to be occupied by the said applicant at in the electoral district of and we consider it for the convenience of the public that a licence should be granted to the said applicant.

| Name | Date of signature | Distance in yards in a direct line from the proposed licensed premises |
|---|---|---|
| | | |

I, the undersigned do certify that all the persons whose names are appended to the within recommendation are personally known to me and have signed the same in my presence and the date upon which each person signed the said recommendation is directly set opposite the name of each person respectively.

Dated at in the District of
this day of A.D. 1

*A.B.,*
J.P., *or* Commr., *etc.*
C. O. 89.

## FORM C.

(*Section 28.*)

I, applicant for a licence to sell intoxicating liquors, make oath and say:

That I am of the full age of twenty-one years.

That I have never been convicted of any criminal offence subject to imprisonment for five years or upwards.

Sworn before me at
in the district of
this day of 1
*A.B.*,
A Justice of the Peace *or* A Commissioner, etc.

C. O. 89.

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## FORM D.

(*Section 28.*)

We, and , do severally make oath and say:

That we are neighbours of , applicant for a licence to sell intoxicating liquors;

That he is personally known to us;

That he is of the full age of twenty-one years;

That he has never been convicted of any criminal offence subject to imprisonment for five years or upwards to our knowledge; and

That he is a man of good moral character and temperate habits.

Sworn by said
and before
me at in the dis-
trict of this
day of 1
*A.B.*,
A Justice of the Peace *or* A Commissioner, etc.

C. O. 89.

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## FORM E.

(*Section 47.*)

### FORM OF BOND BY APPLICANT FOR AN HOTEL OR WHOLESALE LICENCE.

Know all men by these presents that we of of and of are held and firmly bound unto *his Majesty King Edward the Seventh his* heirs and successors as follows, that is to say: the said in the sum of five hundred dollars of good and lawful money of Canada the said in the sum of two hundred and fifty dollars of like good and lawful money and the said in the sum of two hundred and fifty dollars of like good and lawful money, for payment of which well and truly to be made we bind ourselves and each of us, our heirs, executors and administrators firmly by these presents.

Whereas the above bounden is about to obtain a licence to keep a for the sale of liquor in the of . The condition of this obligation is therefore such that if the said pay all fines and penalties which he may be condemned to pay for any offence against any statute or other provision having the force of law now or hereafter to be in force relative to such licence for the sale of liquor and does, performs and observes all the requirements thereof and conforms to all rules and regulations that are or may be established by competent authority in such behalf; then this obligation shall be null and void, otherwise it shall remain in full force, virtue and effect.

In witness whereof we have signed these presents with our hands and sealed them with our seals this day of one thousand

Signed, sealed and delivered
in presence of us
[L.S.]
[L.S.]
[L.S.]

C. O. 89 and 1901, c. 33, s. 18.

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## FORM E 1.

(*Section 47.*)

### AFFIDAVIT OF SURETY.

*We, of the and of the the securities in the within bond named do severally make oath and say as follows:*

(1) *I, the said , for myself say that I am a householder residing at and that I am worth property situate in the North-West Territories to the amount of two hundred and fifty dollars over and above the exemptions allowed by law and what will pay my just debts.*

(2) *And I, the said , for myself say that I am a householder residing at and that I am*

*worth property, situate in the North-West Territories, to the amount of two hundred and fifty dollars over and above the exemptions allowed by law and what will pay my just debts.*

*The above named and were severally sworn before me at this day of 190*

*A.B.,*
*A Justice of the Peace* or *Commissioner, etc.*
1904, c. 14, s. 6.

## FORM F.

*(Sections 12 and 32.)*

LICENCE.

Whereas of in the district of has made application for a licence to sell intoxicating liquors and it having been made to appear to the board of licence commissioners that the said has complied with the provisions of the Ordinance in that behalf, this is to certify that the said hereby licensed as provided by law to sell intoxicating liquors in manner aforesaid at said place of business from the day of 1 until midnight on the day of 1 .

Dated this day of 1 .

*C. D.*
*Attorney General.*
C. O. 89 and 1900, c. 32, s. 1.

## FORM G.

*(Sections 36, 38 and 43.)*

To the Licence Commissioners:

We the undersigned do hereby protest against the granting of a licence to sell intoxicating liquors as a to for the following reasons: *(Here set forth reasons).*

| Name | Distance in yards in a direct line from the proposed licensed premises | Date of signing |
|---|---|---|
| | | |

I, the undersigned, do certify that all persons whose names are appended to the above protest are personally known to me and have signed in my presence and that they are comprised within the twenty nearest householders to the for which has applied for a licence and the date upon which each person signed the said protest is directly set opposite the name of each person respectively.

Dated at in the North-West Territories this day of A.D. 1

*A. B.*,

A Justice of the Peace *or* A Commissioner, etc.

C. O. 89.

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## FORM H.

(*Section 98.*)

### FORM OF DECLARATION OF FORFEITURE AND OF ORDER TO DESTROY LIQUOR SEIZED.

*If in conviction, after adjudging penalty or imprisonment, proceed thus:*

And I declare the said liquor and vessels in which the same is kept to wit: two barrels containing beer, three jars containing whiskey, two bottles containing gin, four kegs containing lager beer and five bottles containing native wine (*or as the case may be*) to be forfeited to *his* Majesty. * * *

Given under my hand and seal the day and year first above mentioned at, etc.

*J.P.*

C. O. 89 and 1901, c. 33. s. 18 and 1904. c. 14, s. 7.

## FORM I.

*If by separate or subsequent order*:

Canada,
North-West Territories.
To wit:

I, *E.F.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, having on the day of one thousand at the of in the said North-West Territories, duly convicted *X.Y.* of having unlawfully kept liquor without a licence, do hereby declare the said liquor and vessels in which the same is kept, to wit: (*describe the same as above*) to be forfeited to *his* Majesty.

Given under my hand and seal this
day of at the of
in the said

*E.F.* [L.S.]

C. O. 89 and 1901, c. 33, s. 18 and 1904, c. 14, s. 7.

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## FORM J.

(*Section 120.*)

Canada,
North-West Territories.

Be it remembered that on the day of A.D. 1 complaint was made before the undersigned, a justice of the peace in and for the said Territories:

That *A.B.*, (*here set out the facts as stated in the complaint*) and now having duly heard the matter of the said complaint I do order that during the period of one year from the date hereof no licencee after notice of this order shall sell any liquor to the said *A.B.*

Given under my hand and seal this day
of at the of in
the said Territories.

*J.P.*

C. O. 89.

## FORM K.

(*Section 121.*)

### NOTICE OF INTERDICTION.

Regina. 1

*A.B.*, of in the North-West Territories.

Sir,—

In pursuance of *The Liquor License Ordinance* you are hereby notified that *C.D.*, of in the District of labourer (*or as the case may be*) is interdicted from the use of intoxicating liquors, on order made by *G.H.*, a justice of the peace in and for the North-West Territories, bearing date the day of 1 and you are required to govern yourself accordingly.

You are liable if *during the period of two years from the date of said order* you give, sell, purchase or procure to, for or on behalf of such prohibited person or for his or her use any liquor, upon conviction, to a penalty of not less than $50 nor more than $200 and in default of payment to not less than two months' nor more than twelve months' imprisonment, and if you are a licencee, forfeiture of licence.

Your obedient servant,

*E.F.*,

*Attorney General.*

C. O. 89 and 1900, c. 32, ss. 1 and 20.

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## FORM L.

(*Section 122.*)

### NOTICE OF INTERDICTION.

Take notice that under the provisions of section 122 of *The Liquor License Ordinance* I have been required by (*here state name and authority of person who has requested notice to be given*) to notify you that you are not *during the period of one year from the date of this notice* to directly or indirectly sell, give or deliver or suffer to be sold, given or delivered to (*here insert name and description of person*) any intoxicating liquor under a penalty of two hundred dollars and absolute forfeiture of your licence.

Dated this day of A.D. 1

*E.F.*,
*Inspector.*

C. O. 89 and 1900, c. 32, s. 1 and 1904, c. 14, s. 8.

## FORM M.

(*Section 122.*)

### NOTICE OF INTERDICTION.

*To of*

*Take notice that under the provisions of section 122 of The Liquor License Ordinance and at the request of (here state name and authority of person at whose request interdiction is made) I have this day interdicted you from the use of intoxicating liquor for the space of one year from the date hereof. Failure on your part to observe this interdiction will render you liable to a penalty of $50.*

*Dated at this day of 19*

*A. B.*
*Inspector.*

1904, c. 14. s. 9.

## SCHEDULE 2.

### FORMS FOR DESCRIBING OFFENCES.

1. *Neglecting to keep licence exposed.*

That *X. Y.*, having a licence for sale by wholesale (*or* an hotel licence) on unlawfully or wilfully (*or* negligently) omitted to expose the said licence in his warehouse (*or* in the bar room of his hotel *as the case may be*).

2. *Sale without licence.*

That *X. Y.*, on the day of in the year of our Lord one thousand at in the of unlawfully did sell liquor without the licence therefor by law required.

3. *Keeping liquor without licence.*

That *X. Y.* on at unlawfully did keep liquor for the purpose of sale, barter and traffic therein without the licence therefor by law required.

4. *Sale of liquor on licensed premises during prohibited hours.*

That *X.Y.*, on at in his premises (*or* on, *or* out of, *or* from his premises) being a place where liquor may be sold, unlawfully did sell (*or* dispose of) liquor during the time prohibited by the *The Liquor License Ordinance* for the sale of the same, without any requisition for medical purposes, as required by the said Ordinance, being produced by the vendee or his agent.

5. *Allowing liquor to be drunk on licensed premises during prohibited hours.*

That *X. Y.*, on at in his premises, being a place where liquor may be sold by retail (*or* wholesale) unlawfully did allow (*or* permit) liquor to be drunk in such place during the time prohibited by *The Liquor License Ordinance* for the sale of the same by a person other than the licensee or some member of his family or a lodger in his house.

6. *Sale of less than one quart under wholesale licence.*

That *X. Y.*, having a wholesale licence on at unlawfully did sell liquor in less quantity than one half gallon (*or* one reputed quart bottle *or* two reputed pint bottles *as the case may be*).

7. *Allowing liquor to be consumed upon wholesale premises.*

That *X. Y.*, having a wholesale licence on at unlawfully did allow liquor sold by him (*or* in his possession) and for the sale of which a licence is required, to be consumed within his premises (*or* within the building of which his premises forms part *or* within a building which communicates by an entrance with his premises) by a purchaser of such liquor (*or* by a person not usually resident within the building of which such premises forms a part).

8. *Illegal sale by druggists.*

That *X.Y.*, being a chemist (*or* druggist) on at did unlawfully sell liquor for other than strictly medicinal purposes (*or* sell liquor in packages of more than six ounces at one time without a certificate from any registered medical practitioner *or* sell liquor without recording the same), as required by *The Liquor License Ordinance.*

9. *Keeping a disorderly house.*

That *X.Y.*, being the keeper of (*house of public entertainment*) situate in the town of in the district of on in his said hotel unlawfully did sanction (*or* allow) gambling, (*or* riotous *or* disorderly conduct) in his said hotel.

10. *Harbouring constables on duty.*

That *X.Y.*, being licensed to sell liquor at on unlawfully and knowingly did harbour (*or* entertain *or* suffer to abide and remain) on his premises *O.P.*, a constable belonging to a police force, during a part of the time appointed for his being on duty, and not for the purpose of quelling a disturbance or restoring order or executing his duty.

11. *Compromising or compounding a prosecution.*

That *X. Y.*, having violated a provision of *The Liquor License Ordinance*, on at unlawfully did compromise (*or* compound *or* settle, *or* offer, *or* attempt to compromise, compound *or* settle), the offence with *A.B.* with the view of preventing any complaint being made in respect thereof (*or* with the view of getting rid of *or* of stopping *or* of having the complaint made in respect thereof dismissed, *as the case may be*).

12. *Being concerned in compromising a prosecution.*

That *X.Y.*, on at unlawfully was concerned in (*or* a party to) a compromise (*or* a composition, *or* a settlement) of an offence committed by *O.P.* against a provision of *The Liquor License Ordinance.*

13. *Refusing to admit policeman.*

That *X.Y.*, on at being in (*or* having charge of) the premises of *O.P.* being a place where liquor is sold (*or* reputed to be sold) unlawfully did refuse (*or* fail) to admit (*or* did obstruct *or* attempt to obstruct) *E.F.* an officer demanding to enter in the execution of his duty (*or* did obstruct *or* attempt to obstruct *E. F.* an officer making searches in the said premises and in the premises connected with such place).

14. *Officer refusing to prosecute.*

That *X.Y.*, being a police officer (*or* constable *or* inspector of licences) in and for the knowing that *O.P.* had on at committed an offence against a provision of *The Liquor License Ordinance*, unlawfully and wilfully did and still does neglect to prosecute the said *O.P.* for his said offence.

15. *Refusing or failing to supply lodging, meals or accommodation to travellers.*

That *F.X.*, being the keeper of an hotel in respect of which an hotel licence has been duly issued and is in force, on at unlawfully failed or refused personally (*or* through someone acting on his behalf) to supply lodgings, meals or accommodation to a traveller as required by *The Liquor License Ordinance.*

16. *Selling liquor to anyone under eighteen years of age.*

That *X.Y.*, at on unlawfully did sanction (*or* allow) to be supplied in his licensed premises by purchase (*or* otherwise) liquor to a person under the age of eighteen years not being a resident on the premises or a *bona fide* guest, lodger or traveller.

17. *Allowing internal communication between licensed and unlicensed premises.*

That *X. Y.*, at on unlawfully did sanction (*or* allow) to be made or used an internal communication between his licensed premises and unlicensed premises which are used for public entertainments and resort (*or* as a refreshment house).

18. *Obtaining liquor by false representations.*

That *X.Y.*, at on unlawfully did by falsely representing himself to be a lodger, buy or obtain (*or* attempt to buy or obtain) at liquor during the period during which such premises are required to be closed in pursuance of *The Liquor License Ordinance.*

19. *Interdiction.*

That *X.Y.*, by excessive drinking of liquor misspends, wastes (*or* lessens *if the fact be so*) his estate (*or* greatly injures his health *or* endangers *or* interrupts the peace and happiness of his family). C. O. 89.

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## FORM M.

### FORM OF INFORMATION LAID OR COMPLAINT MADE AS THE CASE MAY BE.

Canada,
North-West Territories.
To wit:

The information of *A.B.*, of the of in the of laid (*or* complaint made *as the case may be*) upon oath (*or* affirmation) before me *C.D.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, the day of A.D. one thousand

The said informant says he is informed and believes that *X.Y.*, on the day of A.D. one thousand at the in the of unlawfully did sell liquor without the licence therefor by law required (*or as the case may be*).

Laid, sworn, (*or* affirmed) and signed before me the day and year, and at the place first above mentioned.
*C.D.*,
J.P.

*A.B.*

C. O. 89 and 1901, c. 33, s. 18.

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## FORM X.

### FORM OF INFORMATION FOR SECOND, THIRD OR FOURTH OFFENCE.

Canada,
North-West Territories.
To wit:

The information of *A.B.*, of etc., laid upon oath (*or* affirmation) before me, *C.D.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, the day of A.D. one thousand

The said informant says he is informed and believes that *X.Y.*, on at (*describe last offence*):

And further that the said *X.Y.* was previously, to wit: on the day of A.D. 1 , at the of , before *E.F.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, duly convicted of having on the day of 1 , at the of in the of unlawfully sold liquor without the licence therefor required by law (*or as the case may be*);

And further that the said *X.Y.* was previously, to wit: on the day of A.D. 1 , at the of in the of , before, etc., (*as in preceding paragraph*) again duly convicted of having on the day of A.D. 1 , at the of in the of , having a wholesale licence, unlawfully allowed liquor to be consumed within a building which communicates by an entrance within his premises by a person not usually resident within the building of which such premises form a part (*or as the case may be*);

And further that the said *X.Y.* was previously, to wit: on the day of A.D. 1 , in the of before, etc. (*see above*) again duly convicted of having on the day of A.D. 1 , at the of in the of , (being in charge of the premises of *O.P.*, a place where liquor was reputed to be sold) unlawfully failed to admit *E.F.*, an officer demanding to enter in the execution of his duty (*or as the case may be*).

And the informant says the offence hereinbefore firstly charged against the said *X.Y.* is his fourth (*or as the case may be*) offence against *The Liquor License Ordinance.*

Laid, sworn (*or* affirmed) and signed before me the day and year, and at the place first above mentioned.
*C.D.*,
J.P.
*A.B.*

C. O. 89 and 1901, c. 33, s. 18.

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## FORM O.

### SUMMONS TO WITNESS.

Canada,
North-West Territories.
To wit:

To *J.K.*, of the of in the of

**Whereas information has been laid before me *C.D.*, one of *his* Majesty's justices of the peace in and for the North-West Territories that *X. Y.*, being a druggist, on the day of A.D. 1 at the of in the of unlawfully did sell liquor for other than strictly medicinal purposes (*or as the case may be*) and it has been made to appear to me that you are likely to give material evidence on behalf of the prosecution in this matter;**

**These are to require you to be and appear on** the day of A.D. 1 at o'clock in the noon at the in the of before me or such justice or justices of the peace as may then be there to testify what you know concerning the said charge so made against the said as aforesaid (and also to bring with you and there and then to produce all and every invoices, day books, cash books or ledgers and receipts, promissory notes or other security relating to the purchase or sale, or sale of liquor by the said *X.Y.*, and all other books and papers, accounts, deeds and other documents in your possession, custody or control relating to any matter connected with the said prosecution). Herein fail not.

Given under my hand and seal this day of A.D. 1 at the of in the of

*C.D.*, [L.S.]
J.P.

C. O. 89 and 1901, c. 33, s. 18.

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## FORM P.

### Form of Conviction for First Offence.

Canada,
North-West Territories.
To wit:

Be it remembered that on the day of A.D. one thousand at the of in the of *X.Y.* is convicted before me, *E.F.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, for that he, the said *X.Y.*, on the day of A.D. one thousand at the of in the in his premises, being a place where liquor may be sold, unlawfully did sell liquor during the time prohibited by *The Liquor License Ordinance* for the sale of the same without any requisition for medicinal purposes as required by the said Ordinance being produced by the vendee or his agent (*or as the case may be*), *A.B.* being informant, and I adjudge said *X.Y.* for his said offence to forfeit and pay the sum of dollars to be paid and applied according to law, and also to pay to the said *A.B.* the sum of dollars for his costs in this behalf, and if the said several sums be not paid forthwith then* I order the said sums to be levied by distress and sale of the goods and chattels of the said *X.Y.*; and in default of sufficient distress in that behalf* (*or where the issuing of a distress warrant would be ruinous to the defendant and his family, or it appears that he has no goods whereon to levy a distress, then instead of the words between the asterisks* say* inasmuch as it has now been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said *X.Y.* and his family, *or* that the said *X.Y.* has no goods or chattels whereon to levy the said several sums by distress), I adjudge the said *X.Y* to be imprisoned in the common gaol at in the said and there to be kept for the space of unless the said sums and the costs and charges of conveying the said *X.Y.* to the said common gaol shall be sooner paid.

Given under my hand and seal the day and year first above mentioned at the of in the aforesaid.

*C.D.*, [L.S.]
J.P.

C. O. 89 and 1901, c. 33, s. 18.

## FORM Q.

### FORM OF CONVICTION FOR A THIRD OFFENCE.

Canada,
North-West Territories.
To wit:

Be it remembered that on the day of in the year of our Lord one thousand at of in the *X. Y.* is convicted before the undersigned *C.D.*, one of *his* Majesty's justices of the peace in and for the said Territories for that he the said *X.Y.* on the day of A.D. one thousand at in the said (*as the case may be*) having violated a provision of *The Liquor License Ordinance* unlawfully did attempt to settle the offence with *A.B.*, with the view of having the complaint made in respect thereof dismissed (*or as the case may be*):

And it appearing to me that the said *X.Y.* was previously, to wit: on the day of A.D. 1 , at the of before, etc., duly convicted of having on the day of A.D. 1 , at the of unlawfully sold liquor without the licence therefor by law required (*or as the case may be*);

And it also appearing to me that the said *X.Y.* was previously, to wit: on the day of A.D. 1 , at the of before, etc., (*see above*) again duly convicted of having on the day of A.D. 1 , at the being the keeper of licensed premises situate in the said of unlawfully allowed gambling in his said licensed premises (*or as the case may be*):

I adjudged the offence of the said *X.Y.*, hereinbefore firstly mentioned, to be the third offence against *The Liquor License Ordinance* (*A.B.* being the informant) and I adjudged the said *X.Y.* for his third offence to be imprisoned in the common gaol of the said of at in the said of there to be kept at hard labour for the space of three calendar months (*or as the case may be*).

Given under my hand and seal the day and year first above mentioned, at in the of

*C.D.*, [L.S.]
*J.P.*

C. O. 89 and 1901, c. 33, s. 18.

## FORM R.

### WARRANT OF COMMITMENT FOR FIRST OFFENCE WHERE A PENALTY IS IMPOSED.

Canada,
North-West Territories.
To wit:

To all or any of the constables and other peace officers in the of and the keeper of the common gaol of the said at in the

Whereas *X.Y.* late of the of in the said was on this day convicted before the undersigned *C.D.*, one of *his* Majesty's justices of the peace in and for the North-West Territories, for that he, the said *X.Y.*, on at unlawfully did sell liquor without the licence therefor by law required (*state offence as in the conviction*) (*A.B.* being the informant) and it was thereby adjudged that the said *X.Y.* for his said offence should forfeit and pay the sum of (*as in conviction*) and should pay to the said *A.B.* the sum of for his costs in that behalf;

And it was thereby further adjudged that if the said several sums should not be paid forthwith the said *X.Y.* should be imprisoned in the common gaol at in the said Territories there to be kept at hard labour for the space of unless the said several sums and the costs and charges of conveying the said *X. Y.* to the said common gaol should be sooner paid;

And whereas the said *X.Y.* has not paid the several sums or any part thereof although the time for payment thereof has elapsed;

[*If a distress warrant issued and was returned no goods or not sufficient goods, say*:

And whereas afterwards on the day of A.D. 1 , I, the said justice, issued a warrant to the said constable or peace officer or any of them to levy the said several sums of of and by distress and sale of the goods and chattels of the said *X.Y.*;

And whereas it appears to me as well by the return of the said warrant of distress by the constable who had the execution of the same or otherwise that the said constable has made diligent search for the goods and chattels of the said *X.Y.* but that no sufficient distress whereon to levy the said sums could be found.]

*[Or where the issuing of a distress warrant would be ruinous to the defendant and his family or if it appears that he has no goods whereon to levy a distress then instead of the foregoing recitals of the issue and return of the distress warrant, etc., say:*

And whereas it has been made to appear to me that the issuing of a warrant of distress in this behalf would be ruinous to the said *X. Y.*, and his family *or* that the said *X. Y.* has no goods or chattels whereon to levy the said sums by distress, (*as the case may be*)]:

These are therefore to command you, the said constables or peace officers or any of you, to take the said *X.Y.* and him safely convey to the common gaol at in the of and there deliver him to the said keeper thereof together with this precept;

And I do hereby command you, the said keeper of the said common gaol, to receive the said *X.Y.* into your custody in the said common gaol there to imprison and keep him for the space of unless the said several sums and all the costs and charges of the said distress, amounting to the sum of , and of the commitment and conveying of the said *X. Y.* to the said common gaol, amounting to the further sum of , shall be sooner paid unto you, the said keeper, and for so doing this shall be your sufficient warrant.

Given under my hand and seal this day of A.D. 1 , at

*C.D.*, [L.S.]
J.P.

C. O. 89 and 1901, c. 33, s. 18.

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# LIQUOR LICENCE.

AMENDMENT.

## An Ordinance to amend Chapter 89 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Sale of Intoxicating Liquors and the Issue of Licences therefor."

1900, c. 32
4 May, 1900

*[Assented to May 4, 1900.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Attorney General substituted for chief license inspector

**1.** *The Liquor Licence Ordinance* is hereby amended by striking out the words "chief inspector" and "chief licence inspector" where they occur therein and substituting therefor the words "attorney general." 1900, c. 32, s. 1.

**2.** to **21.** * * * * * * *

Affidavits of merits on appeal

**22.** No appeal shall lie from a conviction for any violation or contravention of any of the provisions of this Ordinance unless the party appealing shall within the time limited for giving notice of such appeal make an affidavit before the justice or one of the justices or police magistrates who tried the cause that he did not by himself or by his agent, servant or employee or any other person with his knowledge or consent commit the offence charged in the information and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agent, servant or employee of the accused or any other person with his knowledge or consent; which affidavit shall be transmitted with the conviction to the court to which the appeal is given.

(2) *Any justice making a conviction for any violation or contravention of any of the provisions of the said Ordinance shall not transmit the conviction to the court to which an appeal is given unless and until the affidavit required by this section has been made and deposited with him; and unless such affidavit shall be made and deposited with such justice within the time limited by this section any notice of appeal or other proceedings respecting appeal which may be given or taken shall be absolutely null and void and of no effect whatever; and the justice shall proceed in respect of such conviction as if no such notice of appeal had been given or proceeding taken.*

(3) *Upon notice being given of appeal from a conviction for an infraction of the said Ordinance a consequence of which conviction is a forfeiture of the license of the person convicted and upon the affidavit required by this section being made and deposited as provided the attorney general may apply to the court to which such appeal is made to expedite the hearing of the said appeal and to fix a time and place for such hearing; and the court shall thereupon fix such time and place for the disposal of the said appeal as to it may seem proper.* 1900, c. 32, s. 22 and 1901, c. 33, s. 21.

Affidavit of merits on certiorari

**23.** No writ of certiorari shall issue for the purpose of quashing any conviction for any violation or contravention of any of the provisions of this Ordinance unless the party applying therefor shall produce to the judge to whom the application is made an affidavit that he did not by hmself or by his agent, servant or employee or any other person with his knowledge or consent commit the offence charged in the information; and such affidavit shall negative the charge in the terms used in the information; and shall further negative the commission of the offence by the agent, servant or employee of the accused or any other person with his knowledge. 1900, c. 32, s. 23.

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# LIQUOR LICENCE.

## AMENDMENT.

### An Ordinance to amend Chapter 89 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Sale of Intoxicating Liquors and the Issue of Licences therefor."

1901, c. 33
12 June, 1901

*[Assented to June 12, 1901.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** to **17.** * * * * * * *

Forms amended

**18.** The forms in the schedules to the said Ordinance are hereby amended by substituting for the words "her Majesty" where they occur therein the words "his Majesty" and for the words "Queen Victoria, Her Heirs and Successors" where they occur therein the words "King Edward the Seventh, His Heirs and Successors." 1901, c. 33, s. 18.

Commercial travellers license

**19.** The attorney general may grant licences to commercial travellers and agents empowering them to take orders in the Territories for liquor to be imported into the Territories to fill such orders.

(2) Such licence shall not empower the person to whom it is granted to keep a stock of liquor in the Territories but merely to take orders for liquor to be sent into the Territries to fill such specific orders.

(3) Such licence may be transferred by the attorney general upon payment of the fee of $10.

(4) Any person who solicits or takes any order in the Territories for liquor to be supplied from outside the Territories

without having obtained the licence in this section mentioned shall be liable to the penalty prescribed by section 85 of the said Ordinance. 1901, c. 33, s. 19.

Quantities that may be sold

**20.** The licence granted under the next preceding section shall authorise the sale of liquor only in quantities of not less than five gallons in each cask or vessel at any one time or where such sale is in respect of bottled liquor in quantities of not less than one dozen bottles of at least three half pints each or two dozen bottles of at least three-fourths of one pint each at any one time.

(2) The provisions of the said Ordinance as to applications for licences and the proceedings thereunder shall not apply to licences granted under either of the two next preceding sections.

(3) Such licence shall expire on the thirtieth day of June in each year and the fee payable therefor shall be $210. 1901, c. 33, s. 20 and 1903, Sess. 1, c. 26, s. 16.

**21.** * * * * * * * *

This Ordinance and chapter 32 of 1900 to form part of Liquor License Ordinance

**22.** This Ordinance and chapter 32 of the Ordinances of 1900 shall be read with and form part of *The Liquor Licence Ordinance.* 1901. c. 33, s. 22.

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# LIQUOR LICENCE.

## AMENDMENT.

1903 sess. 1 c. 26
19 June, 1903

## An Ordinance further to amend Chapter 89 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Sale of Intoxicating Liquors and the Issue of Licences therefor."

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** to **16.** * * * * * * *

Brewers and distillers licenses

**17.** Sections 81 and 85 of the said Ordinance shall not prevent any brewer, distiller or other person duly licensed by the Government of Canada for the manufacture of spirituous, fermented or other liquors from keeping or selling in such quantities as are hereby authorised any liquor manufactured by him provided the building in which such liquors are kept forms no part and does not communicate by any entrance with any shop or premises wherein any article authorised to be manufactured under such licence is sold by retail, or wherein is kept any broken package of such articles, and provided also that such brewer, distiller or other person has applied for and obtained a licence to sell by wholesale in the quantities hereinafter specified.

Quantities that may be sold

(2) The licences granted under this section shall authorise the sale of liquor in quantities of not less than three gallons in each cask or vessel at any time or where such sale is in respect of bottled liquor in quantities of not less than one dozen bottles of at least three half pints each or two dozen bottles of at least three-fourths of one pint each, at any one time.

(3) The provisions of said Ordinance as to applications for licences and the proceedings thereon shall not apply to licences granted under this section.

(4) Such licence shall expire on the thirtieth day of June in each year and the fee payable therefor shall be $210 or a proportionate part thereof. 1903, Sess. 1, c. 26, s. 17.

Amendment of information

**18.** In any prosecution for the violation of any of the provisions of the said Ordinance in the event of any variance between the information and the evidence adduced in support thereof the justice or justices hearing the case may amend such information and may substitute for the offence charged therein any other offence against the provisions of said Ordinance, but if it appears that the person charged has been materially misled by such variance he shall be granted an adjournment of the hearing if he applies therefor. 1903, Sess. 1, c. 26, s. 18.

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# LITERARY INSTITUTES.

*See* MECHANICS' AND LITERARY INSTITUTES.

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# LIVERY STABLE KEEPERS.

## An Ordinance respecting Keepers of Livery, Boarding and Sale Stables.

C.O. 1898 c. 77
15 March 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Livery Stable Keepers' Ordinance."* C. O. 57, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Livery stable keeper

1. The expression "livery stable keeper" means and includes any person who for a money consideration or the equivalent thereof carries on the business of letting or hiring out carriages, sleighs or other vehicles, or horses or other animals, whether with or without a carriage, sleigh or other vehicle, and whether accompanied by an employee of the livery stable keeper or not;

"Boarding stable keeper"

2. The expression "boarding stable keeper" means and includes any person who, for a money consideration or its equivalent, stables, boards or cares for any animal;

"Sales stable keeper"

3. The expression "sales stable keeper" means and includes any person who stables, boards or cares for any animal other than his own, with the intention of selling or disposing of the same, and who receives or is to receive payment for such services whether in the nature of a commission or otherwise. C. O. 57, s. 2.

### LIEN OF A STABLE KEEPER. ENFORCEMENT.

Lien on animals and effects

Detention for indebtedness

**3.** Every livery stable, boarding stable or sales stable keeper shall have a lien on the animals and effects hereinafter mentioned for the value or price of any food, care, attendance or accommodation furnished for any such animal or effects and in addition to all other remedies provided by law may detain in his custody and possession any animal, vehicle, harness, furnishings or other gear appertaining thereto and the personal effects of any person who is indebted to him for stabling, boarding or caring for such animal. C. O. 57, s. 3.

Care of animals and effects detained

Sale by public auction

**4.** Every livery stable, boarding stable or sales stable keeper who has exercised the right of detention by this Ordinance provided shall be obliged to keep in his possession and be responsible for the proper care of any animal or effects detained by him for the full period of such detention unless they shall sooner be released; and if the owner does not reclaim the animals and effects so detained by paying the indebtedness in respect of the same within one month from the commencement of such detention, the keeper detaining may sell or cause the same to be sold by public auction on giving two weeks' notice of sale by advertisement in the newspaper published nearest to such stable, or if more than one newspaper be published in the same locality, then in either one and by posting up notices in the nearest post office and in the said livery or boarding stable of the intended sale, stating (if known):

Notice of sale

(*a*) The names of the owner and the person or persons who brought such animals or effects to the stable;

(*b*) The amount of indebtedness and charges for detention;

(*c*) A description of the animals and effects; and

(*d*) The name of the seller. C. O. 57, s. 4.

Application of proceeds of sale

**5.** The proceeds derived from such sale shall be applied:

(*a*) In paying the expenses incurred by such detention, advertising and sale;

(*b*) In paying the debt for which such detention was made;

and the surplus if any shall be paid to the person entitled thereto on application being made by him therefor. C. O. 57, s. 5.

Balance of proceeds if not claimed to be handed to Territorial treasurer

**6.** In case such owner does not apply for the same within one month from the day of such sale then such surplus shall be handed over to the Territorial treasurer to be kept by him in a special trust account for one year, after which time if such owner does not appear or claim the amount so kept the same shall be paid over and belong to the general revenue fund of the Territories. C. O. 57, s. 6.

### ORDINANCE TO BE POSTED.

Copy of Ordinance to be posted in stable

**7.** It shall be the duty of every livery stable, boarding stable and sales stable keeper to have a copy of this Ordinance hung or posted in a conspicuous place in every such stable and in default of compliance with this section he shall not be entitled to the benefit of this Ordinance. C. O. 57, s. 7.

### PERIODICAL CLEANSING OF STABLE.

Stable to be thoroughly cleansed and disinfected twice every year

**8.** Every livery stable, boarding stable and sales stable keeper in the Territories shall in each and every year in the months of April and October thoroughly cleanse all the stalls, mangers and feed boxes in such stable by thoroughly washing the same with soap and hot water and immediately afterwards thoroughly applying to every part of the same a solution of bichloride of mercury in the following proportions, namely, one half drachm to one gallon of water; and the keeper of any such stable who shall fail during each of the months aforesaid in any year to cause such cleansing to be done shall for such default or omission on summary conviction before any justice of the peace be liable for the first offence to a fine of not more than $10 and to a fine of not more than $25 for every subsequent offence. C. O. 57, s. 8.

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# LOCAL IMPROVEMENTS.

1903 sess. 2 c. 24
21 Nov. 1903

## An Ordinance respecting Local Improvement Districts.

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title
Commencement

**1.** This Ordinance may be cited as *"The Local Improvement Ordinance"* and shall commence and take effect on and from the first day of January, 1904. 1903, Sess. 2, c. 24, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

1. "Commissioner" means commissioner of public works;

2. "Department" means the department of public works for the Territories;

3. "Local improvement branch" means the local improvement branch of the department;

4. "Clerk of the local improvement branch" means the clerk in charge of that branch of the department;

5. "District" means a district constituted under the provisions of this Ordinance;

6. "Division" means a division of a district;

7. "Large district" means any large local improvement district constituted under the provisions of this Ordinance;

8. "Outlying area" means any portion of the Territories no part of which is within a municipality, village or district:

9. "Council" means a council of a district:

10. "Councillor" means a member of any district council and includes the chairman of the council:

11. "Secretary" means the secretary of a council and includes any person for the time being appointed by such council to perform the duties of secretary, treasurer or secretary treasurer:

12. "Elector" means a person qualified to vote at any election under this Ordinance:

13. "Owner" includes any person who has any right, title or estate whatsoever or any interest other than that of a mere occupant in any land:

14. "Occupant" includes the inhabitant occupier of any land or if there be no inhabitant occupier the person entitled to the possession thereof and the leaseholder or holder under agreement for lease and holder under agreement for sale and any person having or enjoying in any way or for any purpose whatsoever the use of land:

15. "Ratepayer" means any owner or occupant over eighteen years of age of land in any district:

16. "Resident" means any owner or occupant of land over eighteen years of age residing in any area proposed to be organised or established as a district:

17. "Taxable person" means any person who may be taxed in respect of ownership or occupancy of any land;

18. "Land," "lands" or "real property" includes lands, tenements and hereditaments and any estate or interest therein:

19. "Public notice" or "published" means a notice published in some newspaper issued in or near the area within which notice is to be given or by written or printed placards containing the notice affixed to public places within the area: In cases where notice is required to be given of any document or its contents it shall be sufficient if the notice sets forth the object, purport or general effect of the document;

20. "Prescribed" means prescribed under or by this Ordinance or by any regulation or resolution made under its authority;

21. "Gazetted" means published in the official gazette;

22. "Person" includes corporations, joint stock companies and partnerships;

23. "Year" means the calendar year. 1903, Sess. 2, c. 24, s. 2.

CONSTITUTION OF DISTRICTS.

Constitution of districts

3. The Lieutenant Governor in Council may by order:

1. Constitute a district which shall comprise an area of not less than 108 nor more than 216 square miles *and contain a resident population in the proportion of one resident to each two square miles;*

2. Describe the boundaries thereof and assign a name and number thereto in accordance with the provisions of this Ordinance;

3. Determine of how many members the council thereof shall consist;

4. Sever any portion of a district from such district and constitute the same a separate district or annex the same to any other district with which the same forms one continuous area and from time to time make any apportionment of property rights and liabilities and give any directions as to any matters and things that may be necessary;

5. Annex to any district an outlying area forming one continuous area with such district;

6. Subdivide or resubdivide any district;

7. Alter the boundaries of or abolish the divisions of any district;

8. Alter and adjust the boundaries of coterminous districts and determine any questions arising out of such alterations or adjustment;

9. Constitute any area within a district a village under the provisions of *The Village Ordinance;*

10. Settle and adjust any rights, liabilities or matters which in consequence of the exercise of any of the foregoing powers require to be adjusted. 1903, Sess. 2, c. 24. s. 3.

Conditions for constitution of districts

4. *The Lieutenant Governor in Council may constitute any district which shall comprise an area of not less than 108 nor more than 216 square miles and contain a resident population in the proportion of one resident to each three square miles on receipt of a petition as hereinafter provided* 1904, c. 8, s. 2.

Requisites of petition

5. Every petition for the constitution of a district shall be in the form prescribed by the commissioner and signed by at least twenty-five residents each of whom is the owner or occupant of ratable land therein. 1903, Sess. 2, c. 24, s. 5.

**6.** [illegible]

**7.** [illegible]

**8.** [illegible]

**9.** [illegible]

**10.** [illegible]

[illegible]

**11.** [illegible]

[illegible]

**12.** *E*[illegible] *district.* [illegible] *district he* [illegible] *meetings of the* [illegible] *the* [illegible]

Disqualification

**13.** No person who:

1. Is concerned or participates in the profit of any contract with the council; or

2. Has been convicted of any criminal offence subject to imprisonment for three years or more; or

3. Is undergoing a sentence of imprisonment;

shall be capable of being or continuing a member of council:

Provided that nothing herein shall disqualify any person from being or continuing a councillor solely because he is concerned or participates in a transaction with the council in respect of:

1. A lease, sale or purchase of lands; or
2. An agreement for such lease, sale or purchase; or
3. An agreement for the loan of money or any security for the payment of money; or
4. A contract entered into by an incorporated company for the general benefit of such company; or
5. A contract for the publication of any advertisement or advertisements in a public newspaper. 1903, Sess. 2, c. 24, s. 13.

How office vacated

**14.** The office of a member or chairman shall be vacated:

1. If he is or has become disqualified or has ceased to be qualified under the provisions of this Ordinance; or

2. If he has been absent from three or more consecutive meetings of the council; or

3. If he is ousted from office by order of a judge of the supreme court. 1903, Sess. 2, c. 24, s. 14.

### RETIREMENTS OR VACANCIES.

Resignation of member

**15.** Any member or chairman may resign his office by writing under his hand addressed to the secretary of the council and such resignation shall be complete from the time when it is received by the secretary. 1903, Sess. 2, c. 24, s. 18.

Lieutenant Governor may appoint councillor

**15a.** *Whenever the residents of any division of a district constituted under this Ordinance neglect or refuse to elect a councillor the Lieutenant Governor in Council may appoint some one to act as councillor in such division.* 1904, c. 8, s. 4.

Lieutenant Governor may appoint official councillor

**15b.** *The Lieutenant Governor in Council may appoint an official councillor to conduct the affairs of one or more divisions* *of a district and such official councillor shall have within the division or divisions for which he is appointed all the powers and authorities of a councillor conferred by this Ordinance and in all proceedings of any council meeting shall have one vote for each division represented by him and the Lieutenant Governor in Council shall make such order as he may see fit for the remuneration of such official councillor by the council out of the funds of the division or divisions represented by him and upon the appointment of any such official councillor any councillor who may have been previously elected shall cease to hold office as such. In case the official councillor is appointed for all the divisions of a district he shall have all the powers granted to a council under this Ordinance.* 1904, c. 8, s. 4.

### OUSTER OF OFFICE.

**16.** At any time within one month of the election of any person as chairman or member of a council upon affidavit showing that any such person has been elected unduly or contrary to this Ordinance or that any such person has been elected to or holds or exercises any such office being incapable under the provisions hereof of holding or continuing to hold the same and upon payment into court of the sum of $25 as security for costs to abide the event of the application it shall be lawful for a judge of the supreme court to grant a summons calling upon such person to show cause why he should not be ousted of the office; and where upon the return of the summons it shall appear to the judge upon affidavit or oral evidence that such person was elected unduly or contrary to this Ordinance or was at the time of his election or while holding or exercising such office incapable under the provisions hereof to hold the same the judge may adjudge such person to be ousted of the same and such person shall be ousted of the same accordingly or the judge may discharge the summons and in either case with or without costs. 1903, Sess. 2, c. 24, s. 16.

**Removal by order of judge**

**17.** No proceedings of the council or of any committee of the council or of any person acting as chairman or member of the council or of a committee shall be invalidated by reason of any defect in the appointment or election or of any disqualification of any such person. 1903, Sess. 2, c. 24, s. 17.

**Disqualification of member not to invalidate proceedings**

### ELECTORS AND ELECTIONS.

**18.** At any election all persons who are owners or occupants of ratable land in the division shall be entitled to vote. 1903, Sess. 2, c. 24, s. 18.

**Qualification of elector**

## ELECTION OF COUNCIL.

First election **19.** The first council in every district shall be elected at a time to be appointed by the commissioner who shall appoint the necessary returning officers.

Notice of election (2) The commissioner shall cause the prescribed notice to be given of the time and places at which the election so appointed is to be held. 1903, Sess. 2, c. 24, s. 19.

Poll **20.** At the time and place mentioned in the notice referred to in the next preceding section the returning officr shall proceed to the election and shall open a poll which shall remain open for two hours. 1903, Sess. 2, c. 24, s. 20.

Declaration to be signed **21.** Every elector of the division may vote for as many persons as are required to be elected but prior to the voting shall sign a declaration before the returning officer in form A in the schedule to this Ordinance and record his vote as provided in such form. 1903, Sess. 2, c. 24, s. 21.

Penalty for false declaration **22.** Any person signing such declaration and casting his vote as an elector at such election who is not entitled to vote shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $50 and costs. 1903, Sess. 2, c. 24, s. 22.

Vote of returning officer **23.** The returning officer if he is an elector of the division may vote at the election and in case of a tie shall whether an elector or not give the casting vote. 1903, Sess. 2, c. 24, s. 23.

Election to fill vacancy **24.** On the occurrence of any vacancy in a district council an election to fill such vacancy shall be held forthwith and such election shall be held in the same manner as is provided in this Ordinance for the elections. 1903, Sess. 2, c. 24, s. 24.

Returning officers for first elections **25.** *After the first election hereinbefore provided the council of every district shall have power to appoint returning officers for the elections of councillors for the various divisions in each district. The annual election shall be held on the second Monday in January and in case no returning officers were named at the last meeting of the council or that the officers named by the council refuse or neglect to act the secretary treasurer shall have power to make such further appointments as may be necessary.* 1904, c. 8, s. 5.

Notice for annual meeting

**25a.** *The returning officer for each division shall by notice in form C in the schedule to this Ordinance posted up in five conspicuous places within such division and at least six days previous to such meeting call a meeting of the electors within the same for the second Monday in January for the purpose of electing one or more councillors to serve for the ensuing year.* 1904, c. 8. s. 5.

Payment of returning officer

**25b.** *The secretary treasurer may act as returning officer for one of the divisions of a district and the council may pay out of the funds of the district $5 for each returning officer required.* 1904, c. 8, s. 5.

First meeting of council

**25c.** *Each returning officer shall report forthwith to the secretary treasurer the name of the councillor elected for his division and the secretary treasurer shall by written notice to each councillor elected call the first meeting of the council not later than the first day of February following.* 1904, c. 8, s. 5.

Returning officer not eligible

**26.** No person who acts as returning officer at an election shall be a candidate at such election.

(2) In the event of any person who has been appointed returning officer being absent, refusing to act or desiring to be a candidate the electors present may elect another person to act as returning officer by show of hands. 1903, Sess. 2, c. 24, s. 26.

### DECLARATIONS OF ELECTIONS.

Declaration of office

**27.** Every person elected to the office of councillor shall accept such office by making and subscribing the declaration in form B in the schedule hereto within ten days after notice of his election has been served on him personally or left at his usual place of abode and in default thereof shall be liable to a fine of $25 upon summary conviction before a justice of the peace. 1903, Sess. 2, c. 24, s. 27.

### NONACCEPTANCE OF OFFICE.

Vacancy on nonacceptance

**28.** If any person elected as chairman or councillor refuses or fails to accept such office as aforesaid the same shall thereupon be deemed vacant and shall be filled up by a fresh election as in the case of a vacancy. 1903, Sess. 2, c. 24, s. 28.

### PROCEEDINGS AND POWERS OF COUNCILS.

Date of first meeting

**29.** The council of every newly constituted district shall hold its first meeting within the second week after being elected. 1903, Sess. 2, c. 24, s. 29.

Chairman to be elected

**30.** At the first meeting of the council or at some adjournment thereof the members present shall elect one of the members to be chairman of the council. If the chairman resigns his office as chairman or member or his office becomes vacated the council shall elect a member to be chairman in his stead. 1903, Sess. 2, c. 24, s. 30.

Meetings

**31.** Every council shall meet at such times as are appointed by resolution and shall meet at least twice in every year and every meeting shall be open to the public. 1903, Sess. 2, c. 24. s. 31.

Chairman to preside

**32.** The chairman shall preside at every meeting at which he is present and in the absence of the chairman from any meeting another member shall be elected chairman at and for such meeting. 1903, Sess. 2, c. 24, s. 32.

Record of proceedings

**33.** The council shall cause a record to be kept of all the proceedings of the council, with the names of the councillors who attend at each meeting, and of the names of all councillors voting upon any question, in books to be provided for the purpose which shall be kept by the secretary under the superintendence of the council and every such record shall be signed by the chairman at the next succeeding meeting after being approved by the council. 1903, Sess. 2, c. 24, s. 33.

Majority of council to be present

**34.** No business shall be transacted at any meeting of the council unless a majority of the whole number of the members for the time being are present. 1903, Sess. 2, c. 24, s. 34.

Majority to decide

**35.** All questions shall be decided by a majority and by open voting. 1903, Sess. 2, c. 24, s. 35.

Vote of chairman

**36.** Upon every question the chairman shall have a vote and if the members are equally divided the question shall be decided in the negative:

Provided that if at any election of a chairman of a council or of any meeting there be an equality of votes it shall be decided by lot which of the councillors having an equal number of votes shall be chairman. 1903. Sess. 2, c. 24, s. 36.

Power to adjourn

**37.** The members present at any meeting may from time to time adjourn the meeting. 1903, Sess. 2, c. 24, s. 37.

Enforcement of Noxious Weeds Ordinance

**38.** The council of every district may appoint some person to enforce the provisions of *The Noxious Weeds Ordinance* within the district who for such purpose shall have all the powers of an inspector under the said Ordinance. 1903, Sess. 2, c. 24, s. 38.

### SPECIAL MEETINGS OF COUNCILS.

Special meetings

**39.** The council may at any time hold a special meeting called in pursuance either of a resolution of the council or of a requisition delivered to the secretary and signed by the chairman or any two councillors, specifying the time and place at which such meeting is to be held and the business to be brought before the same. 1903, Sess. 2, c. 24, s. 39.

Notice of special meetings

**40.** Notice in writing of the time and place of such meeting and of such business shall be given by the secretary to every member of the council except the members requisitioning for the same three clear days before the day appointed for such meeting. 1903, Sess. 2, c. 24, s. 40.

### JOINT ACTION BY SEVERAL COUNCILS.

Joint action by council

**41.** Councils may unite with other councils in the execution and maintenance of any works or the performance of any matter or thing deemed by all the councils concerned to be of benefit to their respective districts and may agree as to the joint control or management of any thing that concerns in any way such respective districts or as to the control or management by one or more of such councils of any such thing. 1903, Sess. 2, c. 24, s. 41.

### COMMITTEES.

Committees of council

**42.** The council may from time to time appoint standing or special committees consisting of one or more members of the council and may relegate to such committees any matters for consideration or inquiry or management or regulation, and may delegate to any such committee any of the powers and duties by the Ordinance conferred and imposed upon the council except the powers to borrow money, make a bylaw or execute a contract.

(2) Every committee to whom any powers are delegated as aforesaid may exercise or perform the same in like manner and with the same effect as the council.

(3) Every such committee shall be subject in all things to the council and shall carry out all directions general or special of the council given in relation to such committee or its affairs. 1903, Sess. 2, c. 24. s. 42.

Discharge of committee

**43.** The council may from time to time discharge, alter, continue or reconstitute any committee appointed by it. 1903, Sess. 2, c. 24, s. 43.

**Proceedings not invalid for vacancy in council**

**44.** No proceeding of the council or of any committee shall be invalidated or be illegal by reason only of there being any vacancy in the number of councillors at the time of such proceedings. 1903, Sess. 2, c. 24, s. 44.

### RULES OF PROCEDURE.

**Resolutions regulating procedure**

**45.** The council of every municipality may subject to the provisions of this Ordinance make or pass resolutions:

1. Regulating the proceedings of the council and of committees and the conduct of the meetings thereof;

2. Regulating the adjournment of meetings;

3. Directing notices of meetings to be given and prescribing the form, mode and time of service thereof;

4. Regulating debates;

5. Prescribing the manner and conditions of revoking or altering resolutions;

6. Providing for the custody of documents and records;

7. Prescribing the duties of officers and servants;

8. Prescribing the form and manner of keeping minutes;

9. Concerning anything incidental to any matter in this section referred to;

10. *Regulating the rate of pay for all work done by day labour in the district such rate of pay to be for a day of ten hours and not to exceed the rate of wages current in the vicinity and in no case without the consent of the commissioner to exceed $2.00 per day for labour and $4.00 for man and team. This rate of wages need not apply to men engaged as foremen, inspectors or in the construction of bridges or culverts.*

11. *Remitting ten per cent. of the current year's taxes to any ratepayer who pays his taxes in full on or before July first.* 1903, Sess. 2, c. 24, s. 45, and 1904, c. 8, s. 6.

**Payment of councillors**

**46.** Every council may pass a resolution for paying the members thereof a sum not exceeding $2 for every day and ten cents for every mile respectively necessarily occupied or travelled in going to, remaining at and returning from not more than six meetings of the council in any year. 1903, Sess. 2, c. 24, s. 46.

### OFFICERS.

**Appointment of officers**

**47.** The council may by resolution from time to time appoint and may remove or reappoint fit persons to be secretary treasurer and all such other officers and servants as it thinks necessary and may pay such persons such salaries and allowances as it thinks fit *and the secretary treasurer shall furnish such bond as the council may require.* 1903, Sess. 2, c. 24, s. 47 and 1904, c. 8, s. 7.

Councillors not to be paid officers

**48.** No councillor shall be capable of holding any such office except that of secretary treasurer unless without remuneration. 1903, Sess. 2, c. 24, s. 48.

ASSESSMENT OF THE DISTRICT.

Assessment of the district

**49.** The council may cause to be levied in each year for the general purposes of the district a tax not less than one and one-quarter cents and not more than five cents per acre upon every owner or occupant in the district for all land owned or occupied by him:

Provided that any person whose assessment would be less than fifty cents shall be assessed fifty cents. 1903, Sess. 2, c. 24, s. 49.

Rate to be fixed by resolution

**50.** The rate per acre of the said tax shall be fixed by a resolution of the council. 1903, Sess. 2, c. 24, s. 50.

Assessment roll

**51.** The council shall make or cause to be made an assessment roll in which shall be set out the following information:

(*a*) Each lot or parcel of land owned or occupied within the district and the number of acres it contains;

(*b*) The name and address of the person assessed on account of each such lot or parcel of land;

(*c*) The amount of such assessment.

(2) The assessment roll shall be kept at the office or residence of the secretary and may be inspected at any reasonable time by any ratepayer. 1903, Sess. 2, c. 24, s. 51.

Owner not known

**52.** If the name of the owner of any lot or parcel of land in the district is not known and cannot after reasonable inquiry be ascertained the same shall be deemed to be duly assessed if entered on the roll with a note that the owner is unknown. 1903, Sess. 2, c. 24. s. 52.

Correction of errors in roll

**53.** If any land for which someone should have been assessed has been omitted from the assessment roll or any error made in the particulars contained therein the council shall on the discovery of the omission or error if within two months from the posting of the roll as herein provided cause the necessary additions and alterations to the roll to be made to assess the owner or occupant of the land so omitted or correct the other error. 1903, Sess. 2, c. 24. s. 53.

Notice of assessment

**54.** *The secretary shall complete the assessment roll not later than May fifteenth in each year and shall forthwith mail to each ratepayer whose name and address appear on the assessment roll a notice of his assessment which shall include any arrears of taxes accruing on his lands since the constitution of the district and the entry of the date of the mailing of such notice together with the initials of the secretary on the assessment roll shall be* prima facie *evidence of the mailing of such notice on the date entered without proof of the appointment or signature of the secretary.* 1904, c. 8, s. 8.

Appeal from assessment

**55.** Any person who feels himself aggrieved by the tax assessed may within fifteen days after the mailing of such notice appeal from such assessment by delivering notice of such appeal in writing to the justice of the peace nearest the residence of the secretary; and such justice shall thereupon notify the secretary and appellant of the time and place when such appeal will be heard; and the finding of the justice upon such appeal shall be final. 1903, Sess. 2, c. 24, s. 55.

Distress for taxes

**56.** In case any person neglects to pay his taxes for two months after the mailing of the notice to him as herein provided the secretary may by himself or his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same or of any goods or chattels in his possession wherever the same may be found in the district or of any goods or chattels found on the land the property of or in possession of any other occupant thereof and may impound the same on the premises where distrained; and no claim of property, lien or privilege shall be available to prevent the sale or the payment of the taxes and costs out of the proceeds of sale thereof. 1903, Sess. 2, c. 24, s. 56.

Taxes a lien

**57.** The taxes accruing upon or in respect of any land in the district shall be a special lien upon such land having priority over any claim, lien, privilege or incumbrance thereon. 1903, Sess. 2, c. 24, s. 57.

Suit for taxes

**58.** Any taxes or arrears of taxes due to a district may be recovered by suit in the name of the district as a debt due to the district; in which case the assessment roll shall be *prima facie* evidence of the debt. 1903, Sess. 2, c. 24, s. 58.

**59.** The secretary shall enter all amounts paid him for taxes on the original assessment roll opposite the lot or parcel of land for which such payment is made; and shall issue an official receipt for all such payments in form to be prescribed by the commissioner. 1903, Sess. 2, c. 24, s. 59. Taxes paid to be entered on roll

**60.** The council may enter into any contract for any of the purposes of this Ordinance. 1903, Sess. 2, c. 24, s. 60. Contract by council

**61.** If such contract is for the execution of any work it shall specify the work to be done and the materials to be furnished, the price to be paid for the same, the time or times within which the work is to be completed and the penalties to be suffered in case of nonperformance thereof. 1903, Sess. 2, c. 24, s. 61. Conditions relating to contracts

**62.** The council shall have full power and authority to erect, construct and maintain within the district any public works which in the opinion of the council may be necessary, whether such works are to be or have been constructed wholly within the district or form part of works constructed or to be constructed in one or more districts. 1903, Sess. 2, c. 24, s. 62. Construction of works partly without the district

**63.** The Lieutenant Governor in Council may from time to time place under the temporary or permanent management and control of a council any public works, buildings, erections, machines, implements, wells, reservoirs or other things which have been commenced, constructed, purchased or provided for out of any moneys appropriated by the Legislative Assembly or belonging to any large local improvement district erected under the provisions of any Ordinance of the Territories. 1903, Sess. 2, c. 24, s. 63. Control of works already constructed

**64.** Nothing in this Ordinance shall be deemed to entitle the council to interfere with any public works carried on or executed by the Government or under the control of the Government without the consent in writing of the commissioner of public works. 1903, Sess. 2, c. 24, s. 64. Council not authorised to interfere with government works

**65.** The council shall cause at least one-half of the amount estimated to be expended in the district in each year for general purposes to be apportioned among the divisions thereof in proportion to the amount of ratable property therein respectively as shown in the assessment roll and the amount so apportioned to each division shall be expended in works in such division: Apportionment of expenditure between divisions

Provided that the council by resolution unanimously adopted at a meeting of the whole council may decide that the amount to be apportioned as aforesaid may be reduced to an amount not less than one-quarter of the said district estimate. 1903, Sess. 2, c. 24, s. 65.

### ACCOUNTS.

Books of account to be kept

**66.** The council shall cause books to be kept and regular accounts to be entered therein of all sums of money received and paid otherwise than in respect of loans on account of every district and of the several purposes for which such sums of money have been received and paid and shall cause the accounts of each district to be balanced yearly. 1903, Sess. 2, c. 24, s. 66.

Statement of receipts and expenditure

**67.** The council shall also cause to be prepared a statement or summary showing the financial position of the district at the end of December in each year showing the amount received from each source of ordinary income and the various matters and things on which such accounts have been expended. 1903, Sess. 2, c. 24, s. 67.

Borrowing power

**68.** The council may in anticipation of the collection and payment of the general taxes payable in any year from time to time borrow moneys on the credit of the district rates to an amount not exceeding one-half of the total estimated revenues of the district for the year. 1903, Sess. 2, c. 24, s. 68.

### AUDIT OF THE BOOKS OF THE DISTRICT.

Books to be audited each year

**69.** The books of every district shall be audited each and every year by an official auditor appointed under the provisions of any Ordinance or by a competent person to be named for the purpose by the commissioner.

(2) The fee to be paid from the district funds for such audit shall be fixed from time to time by the commissioner. 1903, Sess. 2, c. 24, s. 69.

### LARGE LOCAL IMPROVEMENT DISTRICTS.

Erection of large district

**70.** The Lieutenant Governor in Council may by order notice of which shall be published in the official gazette organise and constitute as a large local improvement district any portion of the Territories not already contained in a municipality, district or village; and may designate such large district by a distinctive name and number. 1903, Sess. 2, c. 24, s. 70.

Assessment to be made in department

**71.** The assessment of lands made as hereinafter provided in a large district now or hereinafter organised and constituted under the provisions of this or any previous Ordinance shall be made in the local improvement branch; and all notices of such assessment shall be issued from that branch. 1903, Sess. 2, c. 24, s. 72.

Rate of assessment

**72.** In large districts the rate of assessment shall be one and one-quarter cents per acre:

Provided that in any large district if the commissioner is satisfied that the said rate of assessment would raise a sum greater than would be necessary to effect the improvements required in such district the rate of assessment may be reduced to such less amount per acre as the commissioner may determine:

Provided further that any person whose assessment would be less than fifty cents shall be assessed fifty cents. 1903, Sess. 2, c. 24, s. 72.

Assessment roll

**73.** As soon as possible after the beginning of each year or after the organisation of a large district an assessment roll shall be prepared for each large district upon which shall be entered as accurately as may be the following information:

(*a*) Each lot or parcel of land owned or occupied within the district and the number of acres it contains;

(*b*) The name and post office address of the person assessed as owner or occupant of each lot or parcel;

(*c*) The amount of assessment;

(*d*) The amount of previous assessments which have not been paid. 1903, Sess. 2, c. 24, s. 73.

Assessment if owner or address is unknown

**74.** If after reasonable inquiry the name or address of the owner or occupant of any lot or parcel of land in a large district cannot be ascertained the same shall be deemed to be duly assessed if entered on the roll as "owner unknown" or "address unknown" as the case may be. 1903, Sess. 2, c. 24, s. 74.

Notice of assessment

**75.** Upon the completion of the assessment roll it shall be signed by the clerk of the local improvement branch; and a notice shall then be sent by ordinary mail to each person whose name appears upon the roll stating the land in respect of which such person is assessed, the amount of such assessment and requesting payment of same; and the entry upon the assessment roll of the date of mailing of such notice together with the initials of the clerk mailing the same shall be *prima facie* evidence that the notice was duly mailed on that day. 1903, Sess. 2, c. 24, s. 75.

Correction of errors in roll

**76.** If any property in a large district in respect of which any person should have been assessed has been omitted from the assessment roll or been entered on the roll in the name of the wrong person or with an incorrect acreage the necessary addition or alteration to correct the error may be made at any time in the year in which such assessment is made such addition or alteration being initialed by the clerk of the local improvement branch and a notice of assessment in accordance with such addition or alteration shall forthwith be sent to the owner of the property affected. 1903, Sess. 2, c. 24, s. 76.

Taxes a lien and payable in cash

**77.** The taxes accruing upon or in respect of any land in a large district shall be paid in cash and shall be a special lien upon such land having priority over any claim, lien, privilege or incumbrance thereon. 1903, Sess. 2, c. 24, s. 77.

Distress for taxes

**78.** In case any ratepayer neglects or refuses to pay his taxes in a large district for two months after the mailing of the notice as provided by section 75 of this Ordinance the commissioner may by his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same or of any goods and chattels in his possession wherever the same may be found in the large district or of any goods or chattels found on the premises the property of or in the possession of any other occupant of the premises and may impound the same on the premises where distrained; and no claim of property, lien or privilege shall be available to prevent the same or payment of the taxes and costs out of proceeds of the sale thereof. 1903, Sess. 2, c. 24, s. 78.

Moneys how expended

**79.** The taxes collected in any large district shall be deposited in a chartered bank to the credit of a district's trust account; and shall be expended under the direction of the commissioner in making such improvements as may from time to time be required in the district.

(2) The details of the expenditure in any large district shall be published in the public accounts annually submitted to the Legislative Assembly. 1903, Sess. 2, c. 24, s. 79.

Accounts, etc., to be audited

**80.** All accounts and contracts for work in large districts shall be in duplicate and shall be audited by the Territorial auditor and properly certified by him before being paid. 1903, Sess. 2, c. 24, s. 80.

**81.** Should it at any time be deemed expedient to disorganise or alter the boundaries of any large district or to withdraw any area therefrom or to amalgamate any two or more districts which have been organised such disorganisation, alteration, withdrawal or amalgamation may be effected upon recommendation of the commissioner by order of the Lieutenant Governor in Council. 1903, Sess. 2, c. 24, s. 81.

**Disorganisation or alteration of boundaries**

### RETURNS TO COMMISSIONER.

**82.** The secretary of every district shall between the first and fifteenth day of December in each and every year make out a statement in writing on forms supplied by the commissioner containing the information required by the clauses of the second subsection of this section; he shall allow any ratepayer to inspect the statement and to make a copy of or extracts therefrom on any day except Sunday or statutory holidays from the said fifteenth day of December until the twenty-fourth of the same month between the hours of ten o'clock in the morning and four o'clock in the afternoon; and he shall then send such statement audited and certified by the auditor and duly verified by his statutory declaration not later than the first mail after the twenty-fifth day of December to the commissioner.

**Annual return of assessment, taxes, work done, etc.**

(2) The said statement shall contain the following information:

(*a*) The names and post office addresses of all ratepayers together with a description of the lands for which they are assessed and the amount of such assessment;

(*b*) The amount of taxes paid by each ratepayer for the current year and the amount of arrears of taxes if any unpaid by such ratepayer;

(*c*) The amount of arrears of taxes paid during the year with the names of the parties paying them and the lands and year in respect of which they are paid;

(*d*) Details of any revenue other than taxes received by the district;

(*e*) Details of the manner in which all moneys belonging to the district have been expended during the year;

(*f*) Any additional information which the commissioner may consider necessary regarding the operations or standing of the district. 1903, Sess. 2, c. 24, s. 82.

**Return of arrears for taxes**

**83.** The secretary of every district shall within the first fifteen days of January in each year make a return verified by his solemn declaration to the commissioner in such form as may by the commissioner be from time to time prescribed showing all lands in the district upon which taxes have not been paid together with the years for which such taxes are due.

(2) A like return shall be made by the clerk in charge of the local improvement branch of the department for each large district.

(3) The return for all purposes shall be *prima facie* evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed. 1903, Sess. 2, c. 24, s. 83.

**Application to judge for confirmation**

**84.** On application by the attorney general of the Territories or some advocate authorised by him to a judge of the supreme court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section, notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the vicinity of the lands entered on such return to be named by the commissioner.

**Notice to be given**

(2) A notice of the time and place fixed for confirmation of such return shall be sent by registered mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper land titles office or by the said return to have any interest in the lands mentioned in the said return in respect of which confirmation is desired and whose post office address is shown by said records of return; and the entry against such lands of the date of mailing such notice together with the initials of the clerk of the local improvement branch of the department shall without proof of the appointment or signature of the said clerk be *prima facie* evidence that the required notice has been mailed. 1903, Sess. 2, c. 24. s. 84.

**Adjudication by judge**

**85.** At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; and thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default; and report the adjudication to the said attorney general; and shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years naming the amounts severally and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the application; and the effect of such adjudication shall be to vest in the Crown for the public use of the Territories the said lands subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by the payment to the commissioner of the amounts named including expenses as aforesaid together with a redemption fee of five cents for each and every acre in the parcel so redeemed and any subsequent taxes paid by the commissioner; but no such redemption fee shall be less than $2.

(2) For the purposes of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.

(3) In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the commissioner.

Copy to be sent to registrar

(4) A copy of such adjudication certified by the commissioner shall be forwarded to the registrar of land titles of the land registration district in which the lands named in the adjudication or any of them are situated; and such copy shall be notice to the public of the facts contained therein. 1903, Sess. 2, c. 24, s. 85.

Cost when taxes paid after application to judge

**86.** If any person interested in any parcel of land contained in the return presented to the judge for confirmation as provided by section 85 of this Ordinance pays the taxes upon such land before the date fixed for confirmation of such return but after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue pay the sum of $1 for each quarter section or portion thereof in lieu of the costs of application to the judge and advertising and postage in connection with such proceedings; and any sums so paid shall form part of the general revenue. 1903, Sess. 2, c. 24, s. 86.

Order vesting title in Crown

**87.** At any time after the expiration of the year last named on *ex parte* application by the attorney general or some advocate authorised by him and production of the last named adjudication together with a certificate of the commissioner showing that the land has not been redeemed the judge by order in chambers may direct that the title to such of the land named in the adjudication as has not been redeemed by the owner be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatever nature and kind the same may be. 1903, Sess. 2, c. 24, s. 87.

Payment of taxes by commissioner

**88.** So soon as the return of the secretary of any district has been confirmed the commissioner shall pay to the secretary the amount of taxes adjudged in arrears on each parcel of land deducting therefrom any charges he may have been required to pay; and thereafter while owned by his Majesty the said land shall be assessed in the name of the commissioner who shall pay taxes as if the land were assessed to an ordinary individual. 1903, Sess. 2, c. 24, s. 88.

### EXEMPTIONS.

Exemptions

**89.** In any district or large district the property exempt from taxation under the provisions of this Ordinance shall be:

1. All land held by or in trust for the use of any tribe of Indians;

2. The land to the extent of two acres held by or for the use of any public or separate school;

3. The land to the extent of one acre held by or for the use of any church and occupied by a building used for church purposes;

4. The land in use as a public cemetery not exceeding twenty-five acres;

5. The land used as a right of way for any irrigation canal or ditch. 1903, Sess. 2, c. 24, s. 89.

Authentication of orders, etc.

**90.** Every order, notice or other such document requiring authentication by the council may unless otherwise provided be signed by the chairman and secretary. 1903, Sess. 2, c. 24, s. 90.

Regulations of Lieutenant Governor

**91.** The Lieutenant Governor in Council may from time to time make such regulations not inconsistent with this Ordinance as he deems necessary for the following purposes, or any of them, that is to say:

1. Prescribing the duties and functions of all officers and other persons appointed or employed under this Ordinance;

2. Prescribing the form of returns to be made, the particulars to be set forth therein and the persons by whom and the time when or within which such returns shall be made, and other documents referred to in this Ordinance or necessary in order to give effect thereto;

3. Providing where there is no provision in this Ordinance or no sufficient provision in respect to any matter or thing necessary to give effect to this Ordinance in what manner and form the deficiency shall be supplied;

4. For any purpose, whether general or to meet particular cases that may be desirable in order to carry out the object and purposes of this Ordinance or to give effect to anything for which regulations are contemplated or required by this Ordinance. 1903, Sess. 2, c. 24, s. 91.

**92.** The Lieutenant Governor in Council shall settle, adjust, and decide any question arising between any councils with regard to any rights, powers or duties conferred by this Ordinance. 1903, Sess. 2, c. 24, s. 92.

**Settlement of differences by Lieutenant Governor**

**93.** If anything to be done by or under this Ordinance at or within a fixed time cannot be or is not so done the Lieutenant Governor in Council may by order from time to time appoint a further or other time for doing the same whether the time within which the same ought to have been done has or has not expired.

**Extention of time by order of Lieutenant Governor**

(2) Anything done within the time prescribed by such Order in Council shall be as valid as if it had been done within the time fixed by or under this Ordinance. 1903, Sess. 2, c. 24, s. 93.

**94.** The commissioner may make such orders as he may think fit for the adjustment of the assets of small and large local improvement districts affected by this Ordinance and of any district or large district affected by any action under this Ordinance. 1903, Sess. 2, c. 24, s. 94.

**Order by commissioner for adjustment of assets**

**95.** All small and large local improvement districts existing at the coming into force of this Ordinance are hereby disorganised, provided however that such districts shall be deemed to continue to exist so far as may be necessary for the enforcement of the payment of taxes due and for any action that may be required to be taken with reference thereto. 1903, Sess. 2, c. 24, s. 95.

**Existing districts disorganised**

**96.** After the coming into force of this Ordinance immediately upon completion of the returns which he is required to make by the provisions of the Ordinance hereby repealed the overseer of every local improvement district hereby disorganised shall forthwith deliver to the secretary, if any, of the district, if any, within which is comprised the area of such disorganised local improvement district and if there be no such secretary then to the commissioner or to such person as he may name all documents, books, money and other property of such disorganised local improvement district and such property shall be

**Property of local improvement district to be handed over to district**

disposed of as the commissioner may direct; *and any overseer neglecting or refusing to so hand over on demand therefor all documents, books, moneys and other properties of the district in his possession in addition to any civil liability which he may thereby incur shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $50.* 1903, Sess. 2, c. 24, s. 96 and 1904, c. 8, s. 9.

Penalty

Secretary neglecting to discharge duties

**96a.** *Any secretary of a district who neglects to discharge the duties of his office or who neglects or refuses to render true and correct returns when required to do so under the provisions of any Ordinance of the North-West Territories or who refuses or neglects to hand over to his successor on demand therefor all moneys, books, papers and other property of the district in his possession in addition to any civil liability which he may thereby incur shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $50.* 1904, c. 8, s. 10.

Penalty

Repeal

**97.** Chapter 27 of the Ordinances of 1901 is hereby repealed. 1903, Sess. 2, c. 24. s. 97.

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## SCHEDULE.

### FORM A.

Division No. District No.

The undersigned severally declare each for himself that he is a ratepayer in the above named division over eighteen years of age and votes in respect of the land set opposite his name hereto and that he votes for the person whose name is set opposite his name hereto.

| Name | Land voted upon | Person voted for |
|---|---|---|
| | | |

*A.B.,*
*Returning Officer.*

## FORM B.

I hereby declare that I accept the office of councillor for District No. to which I was elected on the day of 19 and promise to perform the duties of such office to the best of my ability.

Witness my hand this day of 19 .

Signed in the presence of .

1903, Sess. 2. c. 24.

## FORM C.

### NOTICE.

*(Give full description of the area included in division.)*

Public notice is hereby given that a meeting of the electors of the division aforesaid will be held at *(description of place)* on Monday the day of January, 19 at 10 a.m., when a poll shall be opened for the election of a councillor for said division for the current year.

....................

*Returning Officer.*

1904, c. 8.

## FORM D.

### THE NORTH-WEST TERRITORIES OF CANADA.

### LOCAL IMPROVEMENT ORDINANCE.

District

### NOTICE OF ASSESSMENT.

M........................

........................

Take notice that you have been assessed under the provisions of The Local Improvement Ordinance for the undermentioned lands in the above district and that taxes are now due and payable to the undersigned as follows:

quarter of Section in Township Range west of the . Meridian.

Taxes for year 190 on acres at per acre—$.......

Arrears of taxes for years ..............$.......

Total amount of taxes due.....$.......

Dated at this . day of 19 .

...................................

*Secy. Treas. District.*

P.O.....................

In case a rebate is granted as provided in section 11 subsection 45 the notice should be amended accordingly.

1904. c. 8.

# FORM E.

Local Improvement District..........................

Assessment Roll and Register for Year..........................................

| LANDS ASSESSED | | | | | No. of acres | Name of person assessed | P.O. Address | Owner or occupant | Rate of assessment | Amount of taxes for current year | | Arrears of taxes | | Years for which arrears are due | Total taxes due | | Date of mailing notice of assessment. | Amount paid | | Receipt No. | Arrears of taxes carried forward | | Years for which arrears are carried forward |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Part of section | S. | Tp. | Re. | M. | | | | | | $ | c. | $ | c. | | $ | c. | | $ | c. | | $ | c. | |
| | | | | | | | | | | | | | | | | | | | | | | | |

# LORD'S DAY PROFANATION.

C.O. 1898 c. 91
15 March 1889

## An Ordinance to Prevent the Profanation of the Lord's Day.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Prohibition of business and labour on Sunday

**1.** No merchant, tradesman, artificer, mechanic, workman, labourer or other person whatsoever shall on the Lord's day sell or publicly show forth or expose or offer for sale or purchase any goods, chattels or other personal property or any real estate whatsoever, or do or exercise any worldly labour, business or trade of his ordinary calling; travelling or conveying travellers or her Majesty's mails, selling drugs and medicines and other works of necessity and works of charity only excepted.. C. O. 91, s. 1.

Exceptions

Games and amusements prohibited

**2.** No person on that day shall play at billiards or pool in any public room or run races on horseback or in vehicles of any sort or discharge fire arms or engage in any game or games in any public place or engage in hunting or in the pursuit of game; except that any traveller, family or other person in a state of actual want may engage in hunting or kill game to satisfy his or their immediate wants. C. O. 91, s. 2.

Contracts made on Sunday to be void

**3.** All sales and purchases and all contracts and agreements for sale or purchase of any real or personal property whatsoever made by any person or persons on the Lord's day shall be utterly null and void. C. O. 91, s. 3.

Penalty

**4.** Any person violating any of the provisions of this Ordinance shall be guilty of an offence and upon summary conviction thereof be liable to a fine not exceeding $100 and costs of prosecution. C.O. 91, s. 4.

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# MAGISTRATES.

C.O. 1898 c. 32
15 March 1889

## An Ordinance Respecting Justices of the Peace.

*Principal Ordinance revised C.O. 1898, c. 32, amended.*
*Amending Ordinance 1903, Sess. 2, c. 10.*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as "*The Magistrates Ordinance.*" C. O. 32, s. 1. Short title

### JUSTICES OF THE PEACE.

**2.** The Lieutenant Governor may appoint justices of the peace for the Territories who shall have jurisdiction as such throughout the same. C. O. 32, s. 2. Appointment of justices

**3.** Whenever a new commission of the peace shall be issued all and such like former commissions shall become absolutely revoked and cancelled: and nothing in this Ordinance contained shall prevent the reappointment of any justice of the peace named in such former commission if the Lieutenant Governor shall think fit. C. O. 32, s. 3. Commission of the peace

**4.** No person who is not a British subject by birth or naturalisation shall be appointed as a justice of the peace. C. O. 32, s. 4. Alien not to be appointed

**5.** When not otherwise specially provided for by law no advocate shall be appointed or act as a justice of the peace during the time he continues to practise as such. No practising advocate to be justice

(2) The provisions of this section shall not apply to any advocate appointed as a police magistrate. C.O. 32, s. 5, amend by 1903, Sess. 2, c. 10, s. 1. Proviso

### OATHS OF JUSTICES.

**6.** Every justice of the peace before he is gazetted as such and takes upon himself to act as a justice of the peace shall take and subscribe the oath of allegiance and the following oath before any person authorised to administer oaths and declarations in the Territories, that is to say: Oath of office and allegiance

I, *A.B.*, of in the district of (*as the case may be*) do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of justice of the peace and that I will do right to all manner of people after the laws and usages of these Territories without fear or favour, affection or ill will. So help me God. C. O. 32, s. 6. Form of oath

**7.** Every oath of office or allegiance taken by a justice of the peace shall forthwith after the same is taken be transmitted or delivered by the justice of the peace to the clerk of the executive council and shall be filed in his office. C. O. 32, s. 7. Record of oath

## PROCEDURE.

Part LVIII of *The Criminal Code* to apply to proceedings

**8.** Except it is otherwise specially provided all the provisions of part LVIII of the Act of the Parliament of Canada known as *The Criminal Code 1892* and the Acts already passed or which may be hereafter passed amending the same shall apply to all proceedings before justices of the peace under or by virtue of any Ordinance of the Territories *or municipal bylaws and to appeals from convictions or orders made therein.* C. O. 32, s. 8 and 1900, c. 8, s. 2.

**9.** * * * * * * * * *

## PRIORITY OF JURISDICTION.

Jurisdiction in first justice

**10.** Jurisdiction in any particular case shall exclusively attach in the first justice of the peace or where more than one justice is required the first justices to the required number duly authorised who has or have possession and cognisance of the fact:

Proviso

Provided that at the request of any such justice or at the unanimous request of any such justices where more than one justice is required any other justice or justices may take part in any case.

Jurisdiction of one or more justices

(2) Every complaint and information shall be heard, tried, determined and adjudged by one justice or two or more justices as directed by the Ordinance or law upon which the complaint or information is framed or by any other Ordinance or law in that behalf.

(3) If there is no such direction in any Ordinance or law then the complaint or information may be heard, tried, determined and adjudged by any one justice.

(4) Any one justice may receive the information or complaint and grant a summons or warrant thereon and issue his summons or warrant to compel the attendance of any witnesses for either party and do all other acts and matters necessary preliminary to the hearing even if by the Ordinance in that behalf it is provided that the information or complaint shall be heard and determined by two or more justices.

(5) After a case has been heard and determined one justice may issue all warrants of distress or commitment thereon.

(6) It shall not be necessary for the justice who acts before or after the hearing to be the justice or one of the justices by whom the case is to be or was heard and determined.

(7) If it is required by any Ordinance or law that an information or complaint shall be heard and determined by two or more justices or that a conviction or order shall be made by two or more justices, such justices shall be present and act together during the whole of the hearing and determination of the case. C. O. 32, s. 10.

RETURNS.

**11.** Every justice of the peace who receives the amount of any fine, penalty, forfeiture or other sum of money which is payable to the Government of the Territories shall forthwith after he has received the same transmit the amount to the attorney general with a statement as in form A in the schedule to this Ordinance. **Returns and transmission.**

(2) Every justice of the peace by or before whom, whether alone or with one or more other justice or justices, any matter of any nature whatsoever is commenced, tried, heard, revised or adjudicated upon shall in the months of January and July in each year and before the fifteenth day thereof make a return in writing signed by him to the attorney general showing the result, disposition of or action taken upon or in regard to any such matter so dealt with theretofore which has not been included in some previous return made by such justice to the attorney general.

(3) Such return shall be in form B in the schedule to this Ordinance and shall truly set forth the information indicated as required by the headings to the different columns in said form.

(4) In case no proceedings whatever have been had or taken before any justice, he shall make a return so stating. C. O. 32, s. 11.

**12.** Any justice or justices of the peace whose duty it is to make returns or transmit fines, penalties, forfeitures or other moneys as aforesaid who refuses or neglects to make such returns or transmit such amounts in the manner and at the time above provided may be required by a written notice from the attorney general (which notice may be forwarded to the usual or last known post office address of the said justice or justices by post prepaid and registered or delivered to the said justice or justices in person) requiring such justice or justices forthwith to make such returns or transmit such amounts as aforesaid; and after the expiration of thirty days from the posting or delivery of such notice should the said justice or justices still refuse or neglect to make such returns or transmit **Procedure to enforce returns**

such amounts as aforesaid then the attorney general shall report such refusal, neglect or omission to the Territorial secretary who shall cause the names of the justice or justices so making default to be published in the official gazette of the Territories during two successive issues thereof with a notice stating that in default of the justice or justices therein named making such returns or transmissions within thirty days from the first publication of such notice the name of such justice or justices so making default shall be erased from the commission of the peace; and the Territorial secretary shall on the expiration of thirty days from the date of the first publication in *The North-West Territories Gazette* erase from the commission of the peace the name of every justice of the peace still in default and upon such erasure such justice or justices of the peace shall be and become deprived of all power and authority and jurisdiction as justice of the peace and shall not thereafter be eligible for reappointment. C. O. 32, s. 12.

**Neglect to make returns Penalties**

**13.** The penalties in this Ordinance provided for omission to make returns shall be in addition to all other fines, penalties or punishment provided therefor by any other Ordinance or law in force in the Territories. C. O. 32, s. 13.

**Penalty for making false return**

**14.** In case the justice or justices before whom any such conviction takes place or who receives or receive any such money neglects or refuses, neglect or refuse to make such return thereof or in case any such justice or justices wilfully makes or make a false, partial or incorrect return every such justice so neglecting or refusing or wilfully making such false, partial or incorrect return shall forfeit and pay the sum of $100 together with full costs of suit to be recovered by the attorney general on behalf of her Majesty before the supreme court of the Territories as a debt, the same when recovered to form part of the general revenue fund of the Territories. C. O. 32, s. 14.

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## SCHEDULE.

### FORM A.

1

The Attorney General,
Regina, N.W.T.

SIR,

I enclose herewith the sum of $ being the amount of the penalty collected on the day of , 1

from of imposed by
at on the day of 1
on conviction for contrary
to the provisions of section of

Your obedient servant,

*J.P.*

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## FORM B.

### Return by Justice of the Peace.

I, the undersigned one of her Majesty's Justices of the Peace in and for the North-West Territories do certify the following to be a true and correct return of all proceedings heretofore had in which I took part as such justice and not included in some previous return made by me to the attorney general of the Territories.

| **Name of prosecutor or informant** | **Name of accused or respondent** | **Nature of charge or matter** | **Act, Ordinance or Bylaw proceeded on** | **Date of hearing** | **Adjudication and sentence if any** | **Amount of costs imposed** | **Date of payment of penalty and costs, & to whom** | **Remarks, giving subsequent action, if any** |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | | |

Dated at 1

*J.P.*

# MAGISTRATES.

## AMENDMENT.

1903 sess. 2 c. 10
21 Nov. 1903

### An Ordinance to amend Chapter 32 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting Justices of the Peace."

*[Assented to November 21, 1903.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Subsection 2 of section 5 amended

**1.** Subsection 2 of Section 5 of *The Magistrates Ordinance* is hereby amended by striking out the words "under any Act of the Parliament of Canada" where they occur therein. 1903, Sess. 2, c. 10, s. 1.

Police magistrates

**2.** The Lieutenant Governor in Council may appoint police magistrates in the Territories and such police magistrates shall have all the powers and authorities now or hereafter vested in two justices of the peace under any law in Canada and shall exercise jurisdiction in and for such territory as is defined by the Order in Council appointing them or by any Order in Council amending the same.

(2) No person shall be appointed a police magistrate unless he has been admitted and has practised as an advocate, barrister or solicitor in the Territories or in one of the provinces of Canada for a period of not less than three years.

(3) Every police magistrate and every justice of the peace whether heretofore or hereafter appointed shall hold office during the pleasure of the Lieutenant Governor in Council and his appointment may at any time be revoked.

(4) Notwithstanding the resignation or revocation of the appointment of any police magistrate or justice of the peace he shall remain liable to transmit all fines and make all returns that he was liable to transmit or make at the time of such resignation or revocation and shall be subject to all penalties for failure to transmit such fines or make such returns as if he had continued such police magistrate or justice of the peace. 1903, Sess. 2, c. 10, s. 2.

Section 64 N.W.T. Act repealed

**3.** Section 64 of *The North-West Territories Act* as enacted and amended by section 7 of chapter 17 of the Statutes of Canada of 1894 and sections 11, 12 and 13 of chapter 28 of the Statutes of Canada of 1897 are hereby repealed. 1903, Sess. 2, c. 10, s. 3.

# MARKING AND INSPECTION OF STOCK.

*See* BRANDS.

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# MARRIAGE.

| | |
|---|---|
| *Principal Ordinance revised* | *C.O. 1898 c. 46 am'd.* |
| *Amendment* | *1901 c. 17* |
| *Further amendment* | *1903 sess. 1, c. 11* |

## An Ordinance respecting Marriages.

**C.O. 1898, c. 46**
**15 March 1899**

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The Marriage Ordinance."* C. O. 46, s. 1.

### SOLEMNISATION OF MARRIAGE.

**Who may perform marriage ceremony**

**2.** The ministers and clergymen of every church or religious denomination duly ordained or appointed according to the rites and ceremonies of the churches, denominations or religious bodies to which they respectively belong and commissioners and staff officers of the Salvation Army may by virtue of such ordination or appointment and according to the rites and usages of such churches, denominations or religious bodies respectively and commissioners appointed for that purpose by the Lieutenant Governor in Council may solemnise or perform the ceremony of marriage between any two persons not under a legal disqualification or disability to contract such marriage. C. O. 46, s. 2.

**Marriage ceremony not to be performed without license or banns**

**3.** *Except as hereinafter provided* no marriage commissioner shall solemnise marriage unless the parties to the intended marriage produce to him the licence provided for by this Ordinance; and no minister or clergyman or other person authorised to perform the ceremony or marriage shall solemnise marriage unless the parties to the intended marriage produce to him such licence or unless the intention of the two persons to intermarry has been proclaimed by publication of banns at least thrice openly on two successive Sundays in some public religious assembly. C. O. 46, s. 3 and 1901, c. 17, s. 1.

Witnesses
Registration

**4.** All marriages shall be solemnised in the presence of two or more credible witnesses besides the minister, clergyman, marriage commissioner or other person performing the ceremony; and every person solemnising a marriage shall register the same according to the provisions of *The Vital Statistics Ordinance.* C. O. 46, s. 4.

No action against person solemnising marriage

**5.** No person duly authorised who solemnises a marriage in conformity with the provisions of section 2 of this Ordinance shall be subject to any action or liability for damages or otherwise by reason of there having been any legal impediment to the marriage unless at the time when he performed the ceremony he was aware of the impediment. C. O. 46, s. 5.

ISSUE OF MARRIAGE LICENCES.

Issue of licenses

**6.** Marriage licences shall be in form A in the schedule to this Ordinance and shall be supplied from the department of the *Territorial secretary* and shall be issued to persons requiring the same by such persons as the Lieutenant Governor in Council may name for that purpose. C. O. 46, s. 6 and 1903, Sess. 1, c. 11, s. 3.

Signature of licenses

**7.** Such licences shall be signed by the *Territorial secretary* and shall be and remain valid notwithstanding that the *Territorial secretary* has ceased to hold office before the time of the issue of the licence. C. O. 46, s. 7 and 1903, Sess. 1, c. 11, s. 4.

Signature by issuer

**8.** Every issuer of marriage licences shall sign each licence as the same is issued by him. C. O. 46, s. 8.

Affidavit prior to grant of license

**9.** Before a licence is granted by any issuer one of the parties to the intended marriage shall personally make an affidavit before him to the effect of form B in the schedule hereto.

(2) The affidavit may be made before any justice of the peace in any case where it is inconvenient for either of the parties to be married to attend personally before an issuer of marriage licences:

Provided always that the reason that neither party can so attend shall be set forth in such affidavit as a justification for the issuer granting licence without a personal application by one of said parties. C. O. 46, s. 9.

ber
nce may
quired

**10.** In case the issuer has knowledge or reason to suspect that any of the statements in the affidavit of any applicant for a marriage licence are not correct the said issuer shall require further evidence to his satisfaction before issuing the licence; and a copy of all such affidavits and evidence shall be placed on file in his office. C. O. 46, s. 10.

Consent to marriage of minors

**11.** The father, if living, of any person under twenty-one years of age (not being a widower or widow) or if the father is dead then the mother of the minor or if both parents are dead then the lawfully appointed guardian or the acknowledged guardian who may have brought up or for three years immediately preceding the intended marriage supported or protected the minor shall have authority to give consent to such marriage.

Consent dispensed with

(2) *Any female over the age of eighteen years who is living apart from her parents or guardians and earning her own livelihood may be excused from obtaining the consent of such parent or guardian and a statement of the facts constituting such excuse shall be set forth in the affidavit required by section 9 hereof.* C. O. 46, s. 11 and 1903, Sess. 1, c. 11, s. 1.

Quarterly returns of licenses issued

**12.** Every issuer of marriage licences shall on the fifteenth day of January, April, July and October in each year make a sworn return to the *Territorial secretary* of all licences issued by him during the preceding three months with the names of the parties to whom issued and shall accompany such return with the original affidavit taken in each instance. The said return shall further state the number of unissued licences in the custody of the issuer and shall be made in the form prescribed by the Lieutenant Governor in Council.

(2) The Lieutenant Governor in Council may in special cases dispense with the provisions of this section and may make regulations for special returns to be made in such cases. C. O. 46, s. 12 and 1903, Sess. 1, c. 11, s. 3.

Return of unissued licenses

**13.** Every issuer of marriage licences shall whenever called upon by the *Territorial secretary* make a sworn return of all licences at any time supplied to him and shall return all unissued licences if so required. C. O. 46, s. 13 and 1903, Sess. 1, c. 11, s. 3.

Fees for licenses

**14.** There shall be payable to every issuer of marriage licences on the issue of each licence by him the sum of $3 of which such issuer shall be entitled to retain $1 as his fee; the remainder he shall pay over to the Territorial treasurer at the time of each return made by such issuer to form part of the revenue of the Territories. C. O. 46, s. 14.

Unauthorised issue of licenses or solemnisation of marriage

Penalty

**15.** Any person unlawfully issuing a marriage licence supplied from the department of the *Territorial Secretary,* any issuer of marriage licences granting a licence without first having obtained the affidavit required by this Ordinance, and any person solemnising a marriage contrary to the provisions of this Ordinance shall, on summary conviction thereof before two justices of the peace, for every such contravention forfeit and pay a fine not exceeding $100 and costs of prosecution. C. O. 46, s. 15 and 1903, Sess. 1, c. 11, s. 3.

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## SCHEDULE.

### FORM A.

CANADA. }
NORTH-WEST TERRITORIES. }

These are to certify that *A.B.* of and *C.D.* of being minded as it is said to enter into the contract of marriage and being desirous of having the same duly solemnised the said *A.B.* (*or C.D.*) has made oath that he (*or* she) believes that there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnisation of the said marriage.

And these are therefore to certify that the requirements in this respect of the Ordinance respecting marriages have been complied with.

Given under my hand at Regina in the North-West Territories this day of
A.D. 1 .

*Territorial Secretary.*

Issued at in the North-West Territories
this day of A.D. 1 .
*Issuer.*

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### FORM B.

I *A.B.* Bachelor (*or as the case may be*)
*or*
*C.D.* Spinster (*or as the case may be*)
make oath and say as follows:

1. I and *C.D.*, of Spinster (*or as the case may be*), *or A.B.*, of Bachelor (*or as the case may be*) are desirous of entering into the contract of marriage and of having our marriage duly solemnised at

2. According to the best of my knowledge and belief there is no affinity, consanguinity or any other lawful cause or legal impediment to bar or hinder the solemnisation of the said marriage.

3. I am of the age of years and the said *C.D.* (*or A.B.*) is of the age of years.

4. (*In case one of the parties is under the age of twenty-one years add*)

*E.F.* of is the person whose consent to the said marriage is required by law and the said *E.F.* has formally consented to the said marriage.

(*Or if both parties are under age.*)

*E.F.* of and *G.H.* of are the persons whose consent to the said marriage is required by law and the said *E.F.* and *G.H.* have formally consented to the said marriage.

(*Or if in the case of one of the minors there is no person whose consent is required by law add according to the facts.*)

The father of the said *C.D.* (*or A.B.*) is dead and the mother of the said *C.D* (*or A.B.*) is dead and the said *C.D.* (*or A.B.*) having no lawfully appointed or acknowledged guardian there is no person who has authority to give consent to the said marriage.

(*In case both the parties are minors and there is no person whose consent is required by law add a similar statement concerning the other party according to the facts.*)

(*Signed*) *A.B.* (*or C.D.*)

Sworn before me at
in the North-West Territories
this day of A.D.
1
(*Signed*) *I.J.*

---

# MARRIAGE.

## AMENDMENT.

### An Ordinance to amend Chapter 46 of The Consolidated Ordinances 1898 intituled "An Ordinance respecting Marriages."

1901 c. 17
12 June 1901

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows

Section 3 amended

**1.** Section 3 of *The Marriage Ordinance* is hereby amended by adding at the beginning thereof the words "Except as hereinafter provided."

Civil marriage notice to commissioner

**2.** In the event of any parties objecting to or not being desirous of adopting marriage by a clergyman or minister of any religious denomination then and in that case notice in writing in form C of the schedule hereto must be given by one of the parties to the marriage commissioner where such parties propose to marry at least fourteen clear days immediately preceding the day of the intended marriage and a declaration of nondisqualification in form D of the schedule hereto must be made and signed by each of the parties so proposing to marry; and forthwith upon receipt of such notice and declaration the same shall be entered upon a book to be kept for that purpose by the marriage commisssioner in his office which shall be open to the inspection of the public. 1901, c. 17, s. 2.

Commissioner's certificate

**3.** Upon the due compliance of the parties with the provisions of the last preceding section the marriage commissioner shall if required give a certificate of such compliance in form E of the schedule hereto. 1901, c. 17, s. 3.

Marriage by commissioner

**4.** After the expiration of the said period of fourteen days marriage may be contracted in the office of and solemnised by the said marriage commissioner according to the form and in the manner hereinafter mentioned but not otherwise:

(*a*) Provided that the marriage shall be contracted with open doors in the presence of two or more credible witnesses besides the marriage commissioner;

(*b*) Provided further that in the presence of such marriage commissioner and witnesses each of the parties shall declare: "I do solemnly declare that I know "not of any lawful impediment why I, *A.B.*, may not "be joined in matrimony to *C.D.*," and each of the parties shall say to the other: "I call upon these per-"sons here present to witness that I, *A.B.*, do take "thee, *C.D.*, to be my lawful wedded wife (*or* hus-"band);"

(*c*) Provided also that there be no lawful impediment to the lawful marriage of such parties. 1901, c. 17, s. 4.

Quakers or Doukhobortsi

**5.** Nothing in this Ordinance shall be construed as in any way preventing the people called Quakers or Doukhobortsi from celebrating marriage (where either or both the parties shall be of the people called Quakers or Doukhobortsi respectively) according to the rights and ceremonies of their own religion or creed.

(2) Subject to the following provisions all such Quakers or Doukhobortsi desirous of being married according to the rites and ceremonies of their own religion or creed shall not less than eight days before such marriage is solemnised give notice in writing to be signed by one of the parties in form C of the schedule hereto to a marriage commissioner of their intention to have such rite or ceremony performed; and forthwith after the performance of the said rite or ceremony shall make and sign a declaration in form F of the schedule hereto which said declaration shall be signed by both the parties to the marriage so contracted in the presence of two witnesses who shall each severally attest such declaration by their signatures; and such declaration shall within eight days be delivered by one or other of the parties so married to the marriage commissioner to whom the aforesaid notice was given.

(3) The marriage commissioner shall upon receipt of the said declaration forthwith transmit the aforesaid notice of intention and declaration to the registrar of the division for the registration of births, marriages and deaths within which the said marriage was solemnised; and such registrar shall deal with the said notice and declaration in the manner in which it is provided by *The Vital Statistics Ordinance* that such registrar shall deal with the forms containing the original entries of marriages reported to him during the month then current. 1901, c. 17, s. 5.

Marriages heretofore solemnised valid

**6.** Every marriage heretofore solemnised between persons not under legal disqualification to contract such marriage shall be deemed a valid marriage so far as respects the civil rights of the North-West Territories of the parties or their issue and in respect of all matters within the jurisdiction of the Legislative Assembly of the North-West Territories notwithstanding that the person who solemnised such marriage was not duly authorised to solemnise marriage and notwithstanding any irregularity or insufficiency in the publication of banns or in the issue of licence or notwithstanding the entire absence of either:

Provided that the parties after such solemnisation lived together and cohabited as husband and wife. 1901, c. 17, s. 6.

Commencement

**7.** This Ordinance shall come into force and effect on the first day of September, 1901.

# SCHEDULE.

## FORM C.

### NOTICE OF MARRIAGE.

To

of

Marriage Commissioner.

I hereby give you notice that a marriage is intended to be had on the day of 190 between me and the other party described and named herein.

| Name | Condition | Rank or Profession | Age | Dwelling place |
|---|---|---|---|---|
| | | | | |

Witness my hand this

day of , 19 .

(*Signed*) *A.B.*

1901 c. 17.

## FORM D.

### DECLARATION OF NONDISQUALIFICATION.

We severally do solemnly declare that we know of no lawful impediment of kindred or alliance or other lawful hindrance why we may not be joined in matrimony.

of

of

19 . 1901, c. 17.

## FORM E.

### MARRIAGE COMMISSIONER'S CERTIFICATE.

I, , marriage commissioner in the North-West Territories, do hereby certify that on the day of 190 notice was duly entered in the marriage notice book kept by me of the marriage intended between the parties therein named and described, delivered under the hand of one of the parties that is to say:

| Name | Condition | Rank or Profession | Age | Dwelling place |
|---|---|---|---|---|
| | | | | |

Date of notice entered 190
Date of certificate given 190

Witness my hand at this day of 19

*Marriage Commissioner.*
1901, c. 17.

## FORM F.

### DECLARATION OF MARRIAGE.

We, the persons hereinafter described, declare that marriage according to the rites and ceremonies of the people called (Quakers *or* Doukhobortsi, *as the case may be*) was contracted by us this day of 190 and we each severally further declare that we know of no lawful impediment of kindred or alliance or other lawful hindrance why we *A.B.* and *C.D* may not be joined in matrimony.

BRIDEGROOM.

| | |
|---|---|
| Name in full. | |
| Age. | |
| Place of residence (*Nearest Post Office.*) | |
| Place of birth. | |
| Bachelor or widower. | |
| Profession or occupation. | |
| Names of parents. | Father<br>Mother |

BRIDE.

| | |
|---|---|
| Name in full. | |
| Age. | |
| Place of residence before marriage. (*Nearest Post Office.*) | |
| Place of birth. | |
| Spinster or widow. | |
| Names of parents. | Father<br>Mother |
| Name of owner or occupant of house in which marriage took place, and nearest Post Office. | |
| Names and residences of two witnesses. | of<br>of |

*A.B.*
*C.D.*

In the presence of us

*E.F.*
*G.H.*

I certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at this day of 190 .

*I.J.,*
*Marriage Commissioner.*
1901, c. 17.

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# MARRIAGE.

## AMENDMENT.

### An Ordinance further to amend Chapter 46 of The Consolidated Ordinances 1898 intituled "An Ordinance respecting Marriages."

1903 sess 1 c. 11
25 April 1903

[*Assented to April 25, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** and **2.** * * * * * * * *

**3.** The said Ordinance and the forms in the schedule thereto are hereby amended by striking out the words "attorney general" where they occur therein and substituting therefor the words "Territorial secretary." **Territorial Secretary substituted for Attorney General**

**4.** All marriage licences heretofore signed by the attorney general shall be and remain valid notwithstanding that the same may not be issued until after the coming into force of this Ordinance. **Licenses signed by Attorney General to remain valid**

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# MARRIAGE REGISTRATION.

*See* VITAL STATISTICS.

# MARRIED WOMEN'S PERSONAL PROPERTY.

C.O. 1898 c. 47
15 March 1899

## An Ordinance respecting the Personal Property of Married Women.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Personal property of married women

**1.** A married woman shall in respect of personal property be under no disabilities whatsoever heretofore existing by reason of her coverture or otherwise but shall in respect of the same have all the rights and be subject to all the liabilities of a *feme sole.* C. O. 47, s. 1.

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See amendments

# MASTERS AND SERVANTS.

1904 c. 5
8 Oct. 1904

## An Ordinance respecting Masters and Servants.

[*Assented to October 8, 1904.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Contracts of hiring

**1.** Every contract or hire of personal service shall be subject to the provisions of this Ordinance and if such contract is for any period more than one year it shall be in writing and signed by the contracting parties. 1904, c. 3, s. 1.

Misconduct of servant

**2.** Any person engaged, bound or hired whether as clerk, journeyman, apprentice, servant, labourer or otherwise howsoever, guilty of drunkenness or of absenting himself by day or night without leave from his proper service or employment or of refusing or neglecting to perform his just duties or to obey the lawful commands of his master or of dissipating his employer's property or effects shall be deemed guilty of a violation of his contract and upon summary conviction of one or more of the said violations forfeit and pay such sum of money not exceeding $30 as to the justice or magistrate seems meet together with costs of prosecution; and in default of payment thereof forthwith shall be imprisoned for any period not exceeding one month unless the fine imposed and costs together with the costs of commitment and conveying such convicted person to the place of imprisonment be sooner paid. 1904, c. 3, s. 2.

Penalty

Proceedings on nonpayment of wages

3. Any justice upon oath of any employee, servant or labourer complaining against his master or employer concerning any nonpayment of wages (not exceeding two months wages the same having been first demanded) illusage or improper dismissal by such master or employer may summon the master or employer to appear before him at a reasonable time to be stated in the summons and the justice shall examine into the matter of the complaint whether the master or employer appears or not; and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service or employment of the master and may direct the payment to him of any wages found to be due (not exceeding ~~two months wages~~ as aforesaid) together with costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer.

exclusive of costs the sum of $100
s 13 c 15 1908-9

Six weeks wages may be allowed

(2) In the event of the said justice determining that the servant or labourer has been improperly dismissed from the service of the master or employer he may in addition to directing the payment to him of any wages found to be due (not exceeding two months wages as aforesaid) direct such master or employer to pay such servant or labourer such further amount as to him may seem reasonable but not exceeding in any event four weeks' wages at the rate at which he was being paid by his master or employer when improperly dismissed as aforesaid together with the costs of prosecution the same to be levied by distress and sale of the goods and chattels of such master or employer.

Counterclaim by employer

(3) If upon the inquiry by the justice it is made to appear by the oath of the master or employer or some person acquainted with the facts that such master or employer would or might be entitled to a claim in a civil action by the complainant for the recovery of the wages claimed to be due for services rendered or for improper dismissal or both by way of set off or counterclaim the justice shall not further inquire into the matter but shall forthwith transmit the information and other papers connected therewith to the clerk or deputy clerk of the supreme court in whose district or subjudicial district respectively the matter arose.

Papers to be transmitted to clerk of court

Clerk shall enter complaint as an action

(4) The clerk or deputy clerk upon receipt of the said information and papers shall immediately enter the complaint as an action under order 47 of the rules of court and the information or complaint shall be considered a statement of claim and the statement under oath of the master or servant or other person of the dispute.

Procedure on trial

(5) The clerk or deputy clerk shall thereupon forthwith submit the papers to the judge who shall fix a day for the trial of the said complaint and the procedure thereupon shall be the procedure provided by said order 47.

Judgment

(6) In the event of the judgment upon the trial by the judge being in favour of the complainant such judgment may be enforced by distress warrant or otherwise in the same manner as if it had been made by the justice before whom the complaint was laid. 1904, c. 3, s. 3.

Limit of time for instituting proceedings

**4.** Proceedings may be taken under this Ordinance within three months after the engagement or employment has ceased or been terminated or within three months after the last instalment of wages under the agreement of hiring has become due whichever shall last happen. 1904, c. 3, s. 4.

Ordinance applies to contracts made outside Territories

**5.** The provisions of this Ordinance shall be held to apply in the Territories to contracts and agreements made at any place outside the same. 1904, c. 3, s. 5.

Civil remedy preserved

**6.** Nothing in this Ordinance shall in any wise curtail, abridge or defeat any civil or other remedy for the recovery of wages or damages which employers or masters may have against servants or employees or which servants or employees may have against their masters or employers. 1904, c. 3, s. 6.

"Master" or "employer"

**7.** The term "master" or "employer" wherever used in this Ordinance shall include a corporation as well as an individual or partnership. 1904, c. 3, s. 7.

Repeal

**8.** Chapter 50 of *The Consolidated Ordinances 1898* and all amendments thereto are hereby repealed. 1904, c. 3, s. 8.

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# MECHANICS' AND LITERARY INSTITUTES.

C.O. 1898 c. 67
15 March 1899

## An Ordinance respecting Mechanics' and Literary Institutes.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Mechanics' and Literary Institutes Ordinance."* C. O. 67, s. 1.

## ORGANISATION AND OBJECTS OF INSTITUTES.

**Mode of organisation**

2. A mechanics' and literary institute shall be held to have been organised under the provisions of this Ordinance whenever thirty persons resident in any town or village incorporated or otherwise or in any township or two townships contiguous in either of which there is not already organised an institute under this Ordinance have signed a declaration setting out the amounts subscribed by each and naming the place where the institute purposes to carry on its objects and forwarded the same to the Territorial secretary with an accompanying certificate signed by one of the subscribers and verified before any person authorised to administer oaths or affidavits to be used in the supreme court of the Territories, such declaration and certificate to be in form A in the schedule hereto. C. O. 67, s. 2.

**Election of officers**

3. Upon the Lieutenant Governor in Council approving the organisation of the proposed institute the party making the certificate accompanying the same or in his absence any one appointed by the Territorial secretary shall call a meeting for the election of the various officers by public notice specifying the time and place of meeting published for two weeks in the nearest newspaper or posted in five conspicuous public places in the town, village or township as the case may be at least fifteen days before the time fixed for holding such meeting. Such meeting shall be held in the town, village or township or one of the townships where the institute intends prosecuting the objects for which the same has been organised.

2. The officers to be elected at such meeting shall be a president, vice president, secretary treasurer, auditor and not less than five directors and the persons entitled to vote at such meeting shall be members. C. O. 67, s. 3.

**Annual subscription**

4. Any person may become a member of a mechanics' and literary institute organised under this Ordinance by paying to the treasurer thereof yearly the sum of $1 which shall be deemed to be due on the first day of each calendar year. C. O. 67, s. 4.

**Purpose**

5. The objects of institutes organised under this Ordinance shall be to encourage mechanics, manufactures and arts generally:

(a) By instituting evening classes organised for the imparting of general [illegible];

(b) [illegible]

agriculture, horticulture, philosophy, science, the fine and decorative arts, history, travels, poetry, biography and fiction;

(*c*) Establishing a reading room. C. O. 67, s. 5.

Annual meeting

**6.** The annual meeting of every institute shall be held in the month of October in each year on the call of the president who shall give eight days notice thereof by circular addressed and posted prepaid to each member of the institute or by public notice published in the nearest newspaper or by posting it in five conspicuous places as provided in section 3 hereof when there shall be elected a president, vice president, a secretary treasurer and not less than five directors and an auditor.

(2) If the president refuses or omits to call such meeting as herein provided the same may be called by the vice president or any three members for any time during the month of November. C. O. 67, s. 6.

Voting, etc.

**7.** No person shall vote or take part in any annual or other meeting of any institute who has not at the time of such meeting paid up all subscriptions due by him to the said institute. C. O. 67, s. 7.

Meeting of officers How called

**8.** A meeting of the officers shall be called by written notice delivered or mailed to each officer given by authority of the president or in his absence the vice president or at the request of any three officers at least five days before the day appointed and at any such meeting four shall be a quorum. C. O. 67, s. 8.

Annual report

**9.** The officers of an institute shall present at the annual meeting a report of their proceedings during the year in which shall be stated:

(*a*) The names of the members of the institute;

(*b*) The amount paid by each set opposite his name;

(*c*) The classes organised;

(*d*) A list of books purchased;

(*e*) A list of newspapers and periodicals on file; together with,

(*f*) Such remarks on the progress of the organisation and use to which it has been put as the directors are enabled to offer. C. O. 67, s. 9.

Financial statement to be audited

**10.** There shall also be presented at the annual meeting a detailed statement of the receipts and disbursements of the institute during the year which said statement shall be audited by the auditor in that behalf before being submitted to the said meeting. C. O. 67, s. 10.

**Certified copy of annual report to be sent to Territorial secretary**

**11.** The said report and statement if approved by the meeting shall be entered in the journals of the institute kept for such purpose and signed by the president or vice president as being a correct entry and a true copy thereof certified by the president and secretary for the time being shall be forwarded to the Territorial secretary within one month from the date of such meeting. C. O. 67. s. 11.

**Officers to give information**

**12.** The officers shall give such information as in their power lies that the Territorial secretary may from time to time require touching the interest and condition of the objects of the organisation in their locality. C. O. 67. s. 12.

**Application of funds**

**13.** The funds of the institute however derived may be expended for any object not inconsistent with those authorised by this Ordinance; provided that not more than one-quarter of the amount received shall be expended for the purpose of a reading room. C. O. 67, s. 13.

**Institute to be a corporation**

**Powers**

**14.** Each institute formed under this Ordinance shall be a corporation with a corporate seal under the name of "The Mechanics' and Literary Institute of ” (inserting the distinguishing name of the institute) and shall have power to acquire, hold, sell, mortgage, lease or otherwise dispose of or incumber the real estate and other properties real and personal. C. O. 67, s. 14.

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## SCHEDULE.

### FORM A.

We, the undersigned, respectively residing in the (town, village, township or townships, *and if the latter give the range*) of in the district of agree to form ourselves into an institute under the provisions of *The Mechanics' and Literary Institutes Ordinance*, under the name of "The Mechanics' and Literary Institute of ” and we respectively promise to pay to the treasurer of the said institute annually as long as we continue members thereof, the sums set opposite our respective names and conform our-

selves to the bylaws and regulations of the said institute and we hereby state that we purpose carrying on the objects of our organisation at the town (*or* village) of .
(*or* on the quarter of Section Township Range West . Meridian).

| | Name | Subscription |
|---|---|---|
| 1 | *A. B.* | $ |
| 2 | *C. D.* | |
| 3 | *E. F.* | |

I of one of the subscribers to the above declaration hereby certify that the sum of at least one dollar has been paid by each of the above subscribers as his first annual subscription to the proposed mechanics' and literary institute of ; and that I held on behalf of the said proposed institute the several amounts so paid.

(*Subscriber's signature.*)

I, the above named do solemnly declare that the facts set forth by me in the foregoing certificate signed by me are true; and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at
this day of
1 } (*Subscriber's signature.*)

(*Signature of officer receiving declaration.*)

C. O. 67.

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# MECHANICS' LIENS.

*Principal Ordinance* *C.O. 1898 c. 59.*
*Amending Ordinance* *1903, sess. 2, c. 18.*

C.O. 1898 c. 59
15 March 1899

## An Ordinance respecting Liens in favour of Mechanics and others.

ended
26, 1906

Repealed
See cap 21/190

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

## SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Mechanics' Lien Ordinance."* C. O. 59, s. 1.

## INTERPRETATION.

Interpretation

**2.** In this Ordinance:

"Contractor"

1. The expression "contractor" means a person contracting with or employed directly by the owner for the doing of work or placing or furnishing of machinery or materials for any of the purposes mentioned in this Ordinance;

"Subcontractor"

2. The expression "subcontractor" means a person not contracting with or employed directly by the owner for the purposes aforesaid but contracting with or employed by the contractor or under him by another subcontractor;

"Owner"

3. The expression "owner" shall extend to and include a person having any estate or interest in the lands upon or in respect of which the work is done or materials or machinery are placed or furnished at whose request and upon whose credit or on whose behalf or consent or for whose direct benefit any such work is done or materials or machinery placed or furnished, and all persons claiming under him whose rights are acquired after the work in respect of which the lien is claimed is commenced or the materials or machinery furnished have been commenced to be furnished;

Labourer

4. *The expression "labourer" shall extend to and include every mechanic, artisan, machinist, miner, builder or other person doing labour for wages.* C. O. 59, s. 2 and 1903, Sess. 2, c. 18, s. 1.

## LIEN FOR WORK ON MATERIALS.

Agreement as to liens

Third party's rights

**3.** No agreement shall be held to deprive any one otherwise entitled to a lien under this Ordinance and not a party to the agreement of the benefit of the lien but the lien shall attach notwithstanding such agreement. C. O. 59, s. 3.

Nature of lien

**4.** Unless he signs an express agreement to the contrary every mechanic machinist, builder, miner, labourer, contractor, or other person doing work upon or furnishing materials to be used in the construction, alteration or repair of any building or erection, or erecting, furnishing or placing machinery of any kind in, upon or in connection with any building, erection or mine, shall, by virtue of being so employed or furnishing, have a lien for the price of the work, machinery or materials, upon the building erection or mine, and the lands occupied thereby or enjoyed therewith, limited in amount to the sum justly due to the person entitled to the lien. C. O. 59, s. 4.

**Property upon which lien shall attach** 5. The lien shall attach upon the estate and interest of the owner, as defined by this Ordinance, in the building, erection or mine in respect of which the work is done or the materials or machinery placed or furnished and the land occupied thereby or enjoyed therewith.

**Where estate charged is leasehold** (2) In cases where the estate or interest charged by the lien is leasehold the land itself may also with the consent of the owner thereof be subject to said lien provided such consent is testified by the signature of such owner upon the claim of lien at the time of registering thereof and duly verified.

**Prior mortgage** (3) In case the land upon or in respect of which any work as aforesaid is executed or labour performed or upon which materials or machinery are placed is incumbered by a prior mortgage or other charge and the selling value of the land is increased by the construction, alteration or materials or machinery, the lien under this Ordinance shall be entitled to rank upon the increased value in priority to the mortgage or other charge. C. O. 59, s. 5.

**Claim for wages** 6. Without prejudice to any lien which he may have under the preceding sections every mechanic, labourer or other person who performs labour for wages upon the construction, alteration or repairs of any building or erection or in erecting or placing machinery of any kind in, upon or in connection with any building, erection or mine shall to the extent of the interest of the owner have upon the building, erection or mine and the land occupied thereby or enjoyed therewith a lien for such wages, not exceeding the wages of thirty days or a balance equal to his wages for thirty days.

(2) The lien for wages given by this section shall attach when the labour is in respect of a building, erection or mine on property belonging to the wife of the person at whose instance the work is done, upon the estate or interest of the wife in such property as well as upon that of her husband. C. O. 59, s. 6.

**Owner to retain 10% of contract price for 30 days** 7. In all cases the owner shall in the absence of a stipulation to the contrary be entitled to retain for a period of thirty days after the completion of the contract ten per centum of the price to be paid to the contractor. C. O. 59, s. 7.

Lien claimed by sub-contractor

**8.** In case the lien is claimed by a subcontractor the amount which may be claimed in respect thereof shall be limited to the amount payable to the contractor or subcontractor (as the case may be) for whom the work has been done or the materials or machinery have been furnished or placed. C. O. 59, s. 8.

Payments made in good faith without notice of lien

**9.** All payments up to ninety per centum of the price to be paid for the work, machinery or materials as defined by section 4 of this Ordinance, made in good faith by the owner to the contractor or by the contractor to the subcontractor or by one subcontractor to another subcontractor before notice in writing by the person claiming the lien has been given to such owner, contractor or subcontractor (as the case may be) of the claim of such person, shall operate as a discharge *pro tanto* of the lien created by this Ordinance, but this section shall not apply to any payment made for the purpose of defeating or impairing a claim to a lien existing or arising under this Ordinance.

(2) A lien shall in addition to all other rights or remedies given by this Ordinance also operate as a charge to the extent of ten per centum of the price to be paid by the owner for the work, machinery or materials, as defined by section 4 of this Ordinance, up to ten days after the completion of the work or of the delivery of the materials in respect of which such lien exists and no longer unless notice in writing be given as herein provided.

(3) A lien for wages for thirty days or for a balance equal to the wages for thirty days shall to the extent of the said ten per cent. of the price to be paid to the contractor have priority over all other liens under this Ordinance and over any claim by the owner against the contractor for or in consequence of the failure of the latter to complete his contract. C.O. 59, s. 9. [Vide subsection (3) of section 2 of 1903, Sess. 2, c. 18, post p. 759.]

Lien not to increase liability of owner

**10.** Save as herein provided the lien shall not attach so as to make the owner liable to a greater sum than the sum payable by the owner to the contractor. C. O. 59, s. 10.

Persons having claims against the lien holders

**11.** All persons furnishing material to or doing labour for the person having a lien under this Ordinance in respect of the subject of such lien, who notify the owner of the premises sought to be affected thereby, within thirty days after such material is furnished or labour performed of an unpaid account or demand against such lienholder for such material or labour, shall be entitled, subject to the provisions of sections 6 and 9 of this Ordinance, to a charge therefor *pro rata* upon any amount payable by such owner under said lien; and if the owner thereupon pays the amount of such charge to the person furnishing material and doing labour as aforesaid such payment shall be deemed a satisfaction *pro tanto* of such lien. C.. O. 59, s. 11.

Disputes to be settled by action or arbitration

**12.** In case of a dispute as to the validity or amount of an unpaid account or demand of which notice is given to the owner under the preceding section the same shall be first determined by action in the supreme court in that behalf or by arbitration in manner mentioned in section 14 of this Ordinance at the option of the person having the unpaid account or demand against the lienholder; and pending the proceedings to determine the dispute so much of the amount of the lien as is in question therein may be withheld from the person claiming the lien. C. O. 59, s. 12.

Failure to pay

**13.** In case the person primarily liable to the person giving such notice as mentioned in section 11 of this Ordinance fails to pay the amount awarded within ten days after the award is made or judgment given the owner, contractor or subcontractor may pay the same out of any moneys due by him to the person primarily liable as aforesaid, on account of the work done or materials or machinery furnished or placed in respect of which the debt arose; and such payment if made after an award or judgment or if made without any arbitration or suit having been previously had or dispute existing then if the debt in fact existed and to the extent thereof shall operate as a discharge *pro tanto* of the moneys so due as aforesaid to the person primarily liable. C. O. 59, s. 13.

Arbitration of sub-contractor's claim

**14.** In case a claim is made by a subcontractor in respect of a lien on which he is entitled and a dispute arises as to the amount due or payable in respect thereof the same shall be settled by arbitration.

(2) One arbitrator shall be appointed by the person making the claim, one by the person by whom he was employed and the third arbitrator by the two so chosen.

(3) The decision of the arbitrators or a majority of them shall be final and conclusive.

(4) In case either of the parties interested in any such dispute refuses or neglects within three days after notice in writing requiring him to do so, to appoint an arbitrator or if the arbitrators appointed fail to agree upon a third the appointment may be made by a judge of the supreme court. C. O. 59, s. 14.

Material affected by lien not to be removed

**15.** During the continuance of a lien no portion of the property or machinery affected thereby shall be removed to the prejudice of the lien; and any attempt at such removal may be restrained by application to the supreme court or a judge thereof. C. O. 59, s. 15.

### REGISTRATION OF LIEN.

Registration of lien

**16.** A claim of lien applicable to the case may be deposited in the land titles office of the land registration district in which the land is situated and shall state:

(*a*) The name and residence of the claimant and of the owner of the property to be charged and of the person for whom and upon whose credit the work is done or materials or machinery furnished and the time or period within which the same was or was to be done or furnished;

(*b*) The work done or material or machinery furnished;

(*c*) The sum claimed as due or to become due;

(*d*) The description of the property to be charged;

(*e*) The date of expiring of the period of credit agreed to by the lienholder for payment for his work, materials or machinery where credit has been given.

(2) Such claim shall be verified by the affidavit of the claimant or his agent. C. O. 59, s. 16.

Claim for wages
Uniting several claims

**17.** A claim for wages may include the claims of any number of mechanics, labourers or other persons aforesaid who may choose to unite them, in such case each claimant shall verify his claim by his affidavit but need not repeat the facts set out in the claim and an affidavit substantially in accordance with form D in the schedule to this Ordinance shall be sufficient. C. O. 59, s. 17.

Claims to be filed as an incumbrance

**18.** The registrar upon payment of the proper fee shall enter and register the claim as an incumbrance against the land or the estate or interest in land therein described as provided in *The Land Titles Act 1894*. The said claim of lien may be described as a mechanics' lien. C. O. 59, s. 18.

Lien holder a purchaser *pro tanta*

**19.** Where a claim is so deposited the person entitled to the lien shall be deemed a purchaser *pro tanto*. C. O. 59, s. 19.

Time for registration

**20.** Where the lien is for wages under sections 6 or 9 of this Ordinance the claims may be registered:

(*a*) At any time within thirty days after the last day's labour for which the wages are payable; or

(*b*) At any time within thirty days after the completion of the construction, alteration or repair of the building or erection or after the erecting or placing of the machinery in or towards which respectively the labour was performed and the wages earned but so that the whole period shall not exceed sixty days from the last day's labour aforesaid.

(2) Such lien shall not be entitled to the benefit of the provisions of sections 6 and 9 of this Ordinance after the said respective periods unless the same is duly registered before the expiration of the said periods so limited.

(3) Such lien shall have the same priority for all purposes after as before registration. C.O. 59, s. 20.

Time for registration

**21.** In other cases the claim of lien may be deposited before or during the progress of the work or within thirty days from the completion thereof or from the supplying or placing the machinery. C. O. 59, s. 21.

PROCEEDINGS TO REALISE LIEN.

Actions to enforce registered lien Time for

**22.** Every lien which has not been duly deposited under the provisions of this Ordinance shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime proceedings are instituted to realise the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom the proceedings are instituted) is duly filed in the land titles office of the land registration district wherein the property in respect of which the lien is claimed is situated. C. O. 59, s. 22.

Action to enforce registered lien Time for

See c 26, 1906

~~**23.** Every lien which has been duly deposited under the provisions of this Ordinance shall absolutely cease to exist after the expiration of ninety days after the work has been completed or materials or machinery furnished or wages earned or the expiry of the period of credit where such period is mentioned in the claim of lien filed unless in the meantime proceedings are instituted to realise the claim under the provisions of this Ordinance and a certificate thereof (which may be granted by the court in which or judge before whom~~

the proceedings are instituted) is duly registered in the land titles office of the land registration district wherein the property in respect of which the lien is claimed is situate. C.O. 59, s. 23.

Time for action if no period of credit or none stated

c 26
1906.

**24.** If there is no period of credit or if the date of expiry of the period of credit is not stated in the claim so filed the lien shall cease to exist upon the expiration of ninety days after the work has been completed or materials or machinery furnished unless in the meantime proceedings shall have been instituted pursuant to section 23 of this Ordinance. C.O. 59, s. 24.

Lien realisable in Supreme Court

**25.** In all cases the lien may be realised in the supreme court in the judicial district in which the land charged is situated according to the ordinary procedure of that court. C. O. 59, s. 25.

Lienholders joining in action
Action enuring to class

**26.** Any number of lienholders may join in one action and any action brought by a lienholder shall be taken to be brought on behalf of all the lienholders of the same class who shall have registered their liens before or within thirty days after the commencement of the action or who shall within the said thirty days file in the proper office of the court from which the writ issued a statement of their respective claims intituled in or referring to the said action.

Death of plaintiff or refusal to proceed

(2) In the event of the death of the plaintiff or his refusal or neglect to proceed any other lienholder of the same class who has registered his claim or filed his statement in the manner and within the time above limited for that purpose may be allowed to prosecute and continue the action on such terms as may be considered just and reasonable by the court or judge.

Sale of land
Time for

(3) In case of a sale of the estate and interest charged with the lien the court or judge may direct the sale to take place at any time after one month from the recovery of judgment and it shall not be necessary to delay the sale for a longer period than is requisite to give reasonable notice thereof.

Machinery

(4) The said court or judge may also direct the sale of any machinery and authorise its removal.

Costs

(5) When judgment is given in favour of a lien the court or judge may add to the judgment the costs of and incidental to registering the lien as well as the costs of the action.

Class to rank *pari passu*

(6) Where there are several liens under this Ordinance against the same property each class of the lienholders shall, subject to the provisions of sections 5, 9 and 11 of this Ordinance, rank *pari passu* for their several amounts against the

said property and the proceeds of any sale shall, subject as aforesaid, be distributed amongst such lienholders *pro rata* according to their several classes and rights and they shall respectively be entitled to execution for any balance due to them respectively after said distribution.

Removing lien on terms

(7) Upon application the court or judge may receive security or payment into court in lieu of the amount of the claim and may thereupon vacate the registry of the lien.

Annulling registration

(8) The court or judge may annul the said registry upon any other ground.

Summary hearing and determination

(9) In any of the cases mentioned in subsections (7) and (8) the court or judge may proceed to hear and determine the matter of the said lien and make such order as seems just, and in case the person claiming to be entitled to such lien has wrongfully refused to sign a discharge thereof or without just cause claims a larger sum than is found by such court or judge to be due the court or judge may order and adjudge him to pay the costs to the other party. C. O. 59, s. 26.

### DEATH OF LIENHOLDER. ASSIGNMENT OF LIEN.

Death of holder

Assignment of lien

**27.** In the event of the death of a lienholder his right of lien shall pass to his personal representatives and the right of a lienholder may be assigned by any instrument in writing. C. O. 59. s. 27.

### DISCHARGE OF LIEN.

Discharge of lien

**28.** A lien may be discharged by a receipt signed by the claimant or his agent duly authorised in writing acknowledging payment and verified by affidavit and filed, such receipt shall be numbered and entered by the registrar like other instruments but need not be copied in any book; the fees shall be the same as for registering a claim of lien. C. O. 59. s. 28.

Discharge to be at contractor's cost

**29.** When there is a contract for the prosecution of the work as hereinbefore mentioned the registration of all discharges of liens shall be at the cost of the contractor unless a court or judge otherwise orders. C. O. 59, s. 29.

### EXECUTION AGAINST PERSON SUPPLYING MATERIAL.

Materials exempt from execution

**30.** Where any mechanic, artisan, machinist, builder, miner, contractor or any other person has furnished or procured materials for use in the construction, alteration or repair of any building, erection or mine at the request of and for some other person, such materials shall not be subject to execution or other process to enforce any debt (other than for the purchase thereof) due by the person furnishing or procuring such materials, and whether the same have or not been in whole or in part worked into or made part of such building or erection. C. O. 59. s. 30.

### LIENS ON CHATTELS.

Liens for improvement of chattels Enforcing

**31.** Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration and improvement of its properties or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon such chattel or thing for the amount or value of the money or skill and materials bestowed, shall, while such lien exists but not afterwards in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to all other remedies provided by law to sell the chattel or thing in respect of which the lien exists on giving one month's notice by advertisement in a newspaper published in the locality in which the work was done or in case there is no newspaper published in such locality or within ten miles of the place where the work was done, then by posting up not less than five notices in the most public places within the locality for one month, stating the name of the person indebted, the amount of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the residence or last known place of residence if any of the owner as the case may be or by mailing the same to him by registered letter if his address be known.

(*a*) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. C.O. 59, s. 31.

### FORMS.

Forms

**32.** The forms in the schedule hereto shall be deemed sufficient for the purposes specified in such schedule. C.O. 59, s. 32.

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## SCHEDULE.

### FORM A.

### CLAIM OF LIEN.

*A. B., (name of claimant)* of *(here state residence of claimant), (if so,* as assignee of *state name and residence of original* *lienholder*) claims a lien under *The Mechanics' Lien Ordinance* upon the estate of (*here state the name and residence of the owner of the land upon which the lien is claimed*) in the undermentioned land in respect of the following work (or materials) that is to say: (*here give a short description of the work done or materials furnished and for which the lien is claimed*) which work was (*or* is to be) done ( *or* materials furnished) for (*here state the name and residence of the person upon whose credit the work is done or materials furnished*) on or before the day of

The following is the description of the work done (*or* material *or* machinery furnished, *as the case may be*).

(*State the work done or material or machinery furnished.*)

The amount claimed as due (*or* to become due) is the sum of $

The following is the description of the land to be charged: (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

*When credit has been given, insert*: The said work was done (*or* materials were furnished) and the period of credit agreed to expired (*or* will expire) on the day of 1 .

Dated at this day of A. D. 1 .

(*Signature of claimant.*)

C. O. 59.

## FORM B.

### CLAIM OF LIEN FOR WAGES.

*A.B.* (*name of claimant*) of (*here state residence of claimant*) (*if so,* as assignee of *state name and residence of original lienholder*) claims a lien under *The Mechanics' Lien Ordinance,* upon the estate of (*here state the name and residence of the owner of the land upon which the lien is claimed*) in the undermentioned land in respect of days' work performed thereon while in the employment of (*here state the name and residence of the person upon whose credit the work was done*) on or before the day of

The amount claimed as due is the sum of $

The following is the description of the land to be charged: (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at this day of A.D. 1 .

(*Signature of Claimant.*)

C. O. 59.

## FORM C.

### CLAIM OF LIEN FOR WAGES WHEN SEVERAL CLAIMANTS.

The following persons claim a lien under *The Mechanics' Lien Ordinance* upon the land of (*here state the name and residence of the owner of the land*) in respect of wages for labour performed thereon while in employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

*A.B.*, of (*residence*) $ for days' wages.
*C.D.*, of $ for days' wages.
*E.F.*, of $ for days' wages.*

The following is the description of the land to be charged: (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at the day
of A.D. 1 .

(*Signatures of the several claimants.*)

*[*If any of the above named claimants are assignees of the original lienholder that fact must be stated and the name and residence of the original lienholder stated.*] C.O. 59.

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## FORM D.

### AFFIDAVIT VERIFYING CLAIM.

I *A.B.*, named in the above (or annexed) claim do make oath that the said claim is true (*or* the said claim so far as it relates to me is true).

*Or,*

We, *A.B.* and *C.D.* named in the above (*or* annexed) claim, do make oath and each for himself saith that the said claim, so far as it relates to him, is true.

(*Where affidavit is made by agent or assignee, a clause must be added to the following effect:* I have full knowledge of the facts set forth in the above *or* annexed claim.)

Sworn before me at
in the North-West Territories,
this day
of A.D. 1

*Or,*

The said *A.B.* and *C.D.* were
severally sworn before me at
in the North-West Ter-
ritories, this day of A.D. 1
*Or,*
The said *E.F.* was sworn before
me at in the North-
West Territories, this
day of A.D. 1

C. O. 59.

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# MECHANICS' LIENS.

## AMENDMENT.

903 sess. 2 c. 18
11 Nov. 1903

An Ordinance to amend Chapter 59 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting Liens in favour of Mechanics and others."

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Section 2 amended**

**1.** Section 2 of *The Mechanics' Lien Ordinance* is hereby amended by adding thereto the following paragraph:

* * * * * * * *

1903, Sess. 2, c. 18, s. 1.

**Receipted pay rolls to be posted on works**

**2.** No contractor or subcontractor shall be entitled to demand or receive any payment in respect of any contract where the contract price exceeds five hundred dollars until he or some person in charge of the works or improvements shall post upon the works or improvements a copy of the receipted pay roll from the hour of twelve noon to the hour of one p.m. on the first legal day after payday and shall have delivered to the owner or other person acting on his behalf the original pay roll containing the names of all labourers who have done work for him upon such works or improvements with a receipt in full from each of the said labourers with the amounts which were due and had been paid to each of them set opposite their respective names which pay roll may be in the form in the schedule hereto and no payment made by the owner without the delivery of such pay roll shall be valid for the purpose of defeating or diminishing any lien upon such property, estate or interest in favour of any such labourer. No assignment by the contractor or any subcontractor of any moneys due in respect to the contract shall be valid as against any lien given by the said Ordinance. As to all liens except that of the contractor the whole contract price shall be payable in money and shall not be diminished by any prior or subsequent indebtedness, set off or counter claim in favour of the owner against the contractor.

(2) A substantial compliance only with this section shall be required and no lien shall be invalidated by reason of failure to comply with any of the requisites thereof unless in the opinion of the court or judge adjudicating upon the lien under the said Ordinance the owner, contractor, subcontractor, mortgagee or other person is prejudiced thereby and then only to the extent to which he is prejudiced and the court or judge may allow the affidavit and statement of claim to be amended accordingly.

(3) Section 9 of the said Ordinance is to be read subject to the provisions of this section. 1903, Sess. 2, c. 18, s. 2.

**3.** This Ordinance shall come into force on the first day of March, 1904. 1903, Sess. 2, c. 18, s. 3.

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## SCHEDULE.

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### PAY ROLL.

| Name | Description. | From 5th January, 1903, to 10th January, 1903, (inclusive). | | | Amount paid | Date of payment | Received payment in full |
|---|---|---|---|---|---|---|---|
| | | Number of days employed | Rate per day | Total amount earned | | | |
| R. Roe. | .......... | Six days | $3.50 | $21.00 | $21.00 | 12th Jan. 1903 | R. Roe. |

I hereby certify that the above statement is correct to the best of my knowledge and belief and is made by me on account of (my contract to, *or* employment by, *as the case may be*), (*here insert brief description of the work*) for (*owner's name*) up to the day of , 190

(Signed),

, *Contractor.*

Dated day of 190 .

1903, Sess. 2, c. 18.

# MEDICAL PROFESSION.

| | |
|---|---|
| *Principal Ordinance revised* | *C.O. 1898, c. 52.* |
| *Amending Ordinance* | *1903, sess. 1, c. 12.* |
| *Amending Ordinance* | *1903, sess. 2, c. 14.* |

C.O. 1898 c. 52
15 March 1899

## An Ordinance respecting the Medical Profession.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Medical Profession Ordinance."* C. O. 52 s. 1.

### COLLEGE OF PHYSICIANS AND SURGEONS.

"The College of Physicians and Surgeons N.W.T."

**2.** The College of Physicians and Surgeons of the North-West Territories as constituted under and by virtue of Ordinance No. 5 of 1888 and amending Ordinances and as existing at the time of the coming into force of this Ordinance is hereby continued and the members of the said college and all persons hereafter registered members of the said college under the provisions of this Ordinance shall be a body corporate under the name of "The College of Physicians and Surgeons of the North-West Territories" and shall have perpetual succession as hereinafter provided and a common seal with power to acquire, hold and dispose of chattel property and real estate for the purposes of this Ordinance and to sue and be sued. C. O. 52 s. 2.

### COUNCIL OF COLLEGE, ELECTION OF MEMBERS.

The council

**3.** There shall be a council of the said college of physicians and surgeons of the North-West Territories to be appointed in the manner hereinafter provided for and hereinafter referred to as the council. C. O. 52. s. 3.

Voters for council

**4.** The persons entitled to vote at elections of members of the council shall be persons registered as medical practitioners in pursuance of this Ordinance. C. O. 52, s. 4.

Members of council

**5.** No person shall be eligible to be elected a member of the council unless he be registered in pursuance of this Ordinance. C. O. 52. s. 5.

**6.** The number of persons to be elected as members forming the said council shall be five and the mode of election shall be by voting papers as hereinafter mentioned. C. O. 52, s. 6.

Five members
Election

**7.** The charge and conduct of the elections for members of the council shall be under the management of the registrar of the council and such elections shall be held at such time and place as may be determined by the council. C. O. 52, s. 7.

Elections for council.

**8.** Every person entitled to vote may vote for five persons. C. O. 52, s. 8.

Votes

**9.** Such votes shall be given by closed voting papers to be mailed to each registered practitioner by the registrar at least one month prior to the day of the election in the form A in the schedule to this Ordinance or to the like effect signed by the voter and delivered to such registrar on any of the twenty days preceding the day of election. Any voting papers delivered to the registrar by post during the respective times aforesaid shall be deemed delivered to him. C. O. 52, s. 9.

Method of voting

**10.** The council shall appoint two persons who together with the registrar shall act as scrutineers at the election. On the day succeeding the day of election the voting papers shall be opened by the registrar in the presence of the other scrutineers who shall scrutinize and count the votes and keep a record thereof in a proper book to be provided by the said council. C. O. 52, s. 10.

Scrutineers
Count of votes

**11.** The five persons who have the highest number of votes shall be the members of the council for the four years following the date of such election and until their successors are appointed. C. O. 52, s. 11.

Members for term

**12.** Any person entitled to vote at any election shall be entitled to be present at the opening of the voting papers at such election. C. O. 52, s. 12.

Voters may be at count

**13.** In case of an equality of votes between two or more persons which leaves the election of one or more of the members of the council undecided the scrutineers shall forthwith put into a ballot box a number of papers with the names of the candidates having such equality of votes written thereon one for each candidate and the registrar in the presence of the scrutineers shall draw by chance from such ballot box one or more of such ballot papers sufficient to make up the required number and the persons whose names are upon such papers so drawn shall be members of such council. C. O. 52, s. 13.

Equality of votes

Fees to be paid
Eligibility
Votes for ineligible person

**14.** No person shall be entitled to vote at such election unless all his fees to the *college* shall have been paid. No person shall be eligible for election unless qualified to vote at such election and any votes cast for any person who is ineligible to be elected a member shall be null and void and the election shall be declared as if such votes had not been cast. C. O. 52, s. 14, and 1903, Sess. 1, c. 12, s. 1.

Voting for more than five

**15.** In the event of any person placing more than five names on his voting paper the first five shall be taken, *but of such five names only those shall be counted that are the names of persons who are eligible for election under section 14 of this Ordinance.* C. O. 52, s. 15, and 1903, Sess. 1, c. 12, s. 2.

List of practitioners entitled to vote
Objections thereto
Appeal to judge
Proceedings on appeal

**16.** The registrar shall one month prior to the day on which the election is to be held make out an alphabetical list or register of the medical practitioners who are entitled to vote at the election then about to be held and such register may then be examined at all reasonable times. In case any medical practitioner entitled to vote complains to the registrar in writing of the improper admission or insertion of any name in the said list it shall be the duty of the registrar forthwith to examine into the complaint and rectify such error if any there be, and in case any person is dissatisfied with the decision of the registrar he may appeal to a judge of the supreme court provided that such appeal be lodged with the judge at least ten days before the day on which the election is to be held; and such judge shall hear and decide the appeal in a summary way and he may if he deem it necessary direct that such notice of the time and place for hearing the appeal as he may prescribe shall be given to such person as he may specify; and if it is necessary to hear evidence in such appeal it may be given *viva voce* under oath or by affidavit as the judge directs; and the decision of such judge shall be final and the list shall remain or be altered in accordance with such decision. C.O. 52, s. 16.

Voters' list conclusive

**17.** The list or register so made out shall be held to be the register of persons entitled to vote at the next election and no person shall be entitled to vote whose name is not upon such register. C. O. 52, s. 17.

Election regulations

**18.** The members of the council may make such regulations as they consider expedient not contrary to the provisions of this Ordinance for regulating the procedure and in respect of such elections. C. O. 52, s. 18.

Preservation of election papers

**19.** The voting papers belonging to any election shall not be destroyed until after all petitions in respect to such election have been decided but the same together with all other papers in connection with the election shall be retained by the registrar. C. O. 52, s. 19.

Petition against return of member

**20.** No petition against the return of any member shall be entertained unless such petition be filed with the registrar of the council within sixty days after the election and shall contain a statement of the grounds on which such election is disputed and unless a copy of such petition is served upon the member whose election is disputed within sixty days of the date of election C. O. 52, s. 20.

Election doubted or disputed Inquiry

**21.** In case of any doubt or dispute as to the legality of the election of any member of the council it shall be lawful for the council to hold an inquiry and decide who is the legally elected member of the council; and the person whom they decide to have been elected shall be and be deemed to be the member legally elected; and if the election is found to be illegal the council shall have power to order a new election. C.O. 52, s. 21.

Vacancies in council how supplied

**22.** In the case of the failure in any instance to elect the requisite number of duly qualified members of the council or in the case of any vacancy caused by the death or resignation of any member of the council or by any other cause then it shall be the duty of the remaining members to supply the deficiency by appointing to such vacant place or places as the same may occur any person or persons duly qualified according to the provisions of this Ordinance to be elected as a member or members of the council. C. O. 52, s. 22.

PRESIDENT AND OFFICERS. MEETINGS OF COUNCIL.

Officers

**23.** The council shall annually appoint a president, vice president, registrar, treasurer and such other officers as may from time to time be necessary for the working of this Ordinance who shall hold office during the pleasure of the council; and the said council shall have power to fix by bylaw or from time to time the salaries or fees to be paid to such officers and to the board of examiners hereinafter mentioned. C. O. 52, s. 23.

Salaries Examiners. fees

Executive committee

**24.** The council shall appoint annually from among its members an executive committee to take cognizance of and action upon all such matters as may be delegated to it by the council or as may require immediate interference or attention between the adjournment of the council and its next meeting; and all such acts shall be valid only till the next ensuing meeting of the council; but the committee shall have no power to alter, repeal or suspend any bylaw of the council. C. O. 52, s. 24.

Meetings of council Regulations

**25.** The council may make such rules and regulations as to the times and places of the future meetings of the council and the mode of summoning the same as to the council seems expedient, which rules and regulations shall remain in force until altered at any subsequent meeting and in the absence of any rule or regulation as to summoning meetings of the council it shall be lawful for the president thereof or in the event of his absence or death, for the registrar to summon the same at such time and place as to him seems fit by circular letter to be mailed to each member.

(2) In the event of the absence of the president from any meeting the vice president or in his absence some other member to be chosen from among the members present shall act as president.

(3) All acts of the council shall be decided by the majority of the members present not being less than three in number.

(4) At all meetings the president for the time being shall have a casting pote. C. O. 52, s. 25.

Fees and expenses of members of council

**26.** There shall be paid to members of the council such fees for attendance and such reasonable travelling expenses as may from time to time be fixed by bylaw passed by the said council. C. O. 52, s. 26.

### REGISTRATION.

Register of qualified persons

**27.** The council shall cause to be kept by the registrar a book or register in which shall be entered the name of every person registered according to the provisions of this Ordnance and from time to time the names of all persons who have complied with the enactments hereinafter contained and with the rules and regulations made or to be made by the council respecting the qualifications to be required from practitioners of medicine or surgery in the Territories and those persons only whose names are inscribed in the book or register above mentioned shall be deemed to be qualified and licensed to practise medicine or surgery in the said Territories except as hereinafter provided and such book or register shall at all times be open and subject to inspection by any person. C. O. 52, s. 27.

Registrar's duties

**28.** It shall be the duty of the registrar to keep his register correct in accordance with the provisions of this Ordinance and the rules, orders and regulations of the council and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Ordinance and the said registrar shall perform such other duties as may be imposed upon him by the council. C. O. 52, s. 28.

Persons entitled to admission to practise

**29.** The council shall admit upon the register:

(*a*) Any person possessing a diploma from any college in Great Britain and Ireland (having power to grant such diploma) entitling him to practise medicine or surgery and who shall produce such diploma and furnish satisfactory evidence of identification;

(*b*) Any member of any incorporated college of physicians and surgeons of any province of the Dominion of Canada exercising powers similar to those conferred by this Ordinance upon the college of physicians and surgeons of the North-West Territories; * * * * * * * * * * * * *

(*c*) Any person who shall produce from any college or school of medicine and surgery *recognised by the council of the college of physicians and surgeons of the North-West Territories* a certificate or certificates that he has taken a four years' course of lectures and a diploma of qualification from such recognised college or school:

Provided that the applicant shall furnish to the council satisfactory evidence of identification and pass before the members thereof or such examiners as may be appointed for the purpose a satisfactory examination touching his fitness and capacity to practise as a physician and surgeon and provided that every applicant for such examination shall pay to the registrar of the college of physicians and surgeons of the North-West Territories the sum of $50 towards defraying the expenses of the examining board. C.O. 52, s. 29, and 1900, c. 15, ss. 1, 2.

Homœopathic physicians

**30.** Homœopathic physicians may be registered under this Ordinance on complying with the terms mentioned in section 29 hereof. C. O. 52, s. 30.

Admission by registrar

**31.** The council may by bylaw delegate to the registrar power to admit to practise and to register any person having the necessary qualifications entitling him to be registered by such council. C. O. 52, s. 31.

Erasure from register

**32.** The council may at any time direct the name of any person improperly registered to be erased from the register and such name shall be erased by the registrar. C. O. 52, s. 32.

### FEES.

Registration fee

**33.** The fee for registration under any section of this Ordinance shall be $50. C. O. 52, s. 33.

Annual membership fee

**34.** Each member shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee as may be determined by bylaw of the council *not exceeding* $2 towards the general expenses of the college which last mentioned fee shall be payable on the first day of January in each year; and such fee shall be deemed to be a debt due by each member of the college and shall be recoverable with the costs of suit in the name of the college of physicians and surgeons of the North-West Territories:

Provided that the council may in any case in which it deems expedient remit any annual fees due to the college by any member who is or has been resident out of the Territories during the period in respect of which such fees became due. C. O. 52, s. 34, and 1903, Sess. 1, c. 12, s. 3.

### GENERAL POWERS OF COUNCIL.

Council to regulate register and examinations

**35.** The council shall from time to time as occasion may require make orders, regulations or bylaws for regulating the register to be kept under this Ordinance and shall from time to time make rules and regulations for the guidance of the examiners and may prescribe the subjects and modes of examination and generally make all such rules and regulations in respect of examinations not contrary to the provisions of this Ordinance as the council may deem expedient and necessary. C. O. 52, s. 35.

General rules

**36.** The council may from time to time make, alter of amend and repeal rules and regulations for the well being and discipline of the council, the conduct of its affairs and the promotion of medical and surgical knowledge and the disposition of the funds of the council, provided such rules and regulatons be not repugnant to the provisions of this Ordinance. C. O. 52, s. 36.

### CENTRAL EXAMINING BOARD.

Central examining board

**37.** The council shall have power to establish conjointly with the council or councils of any college or colleges of physicians and surgeons incorporated under any act of the legislature of any province of Canada and possessing powers similar to those conferred on the college of physicians and surgeons of the North-West Territories a central examining board and to delegate to such board all powers possessed by the said council respecting the examination of candidates for admission to practise medicine and surgery:

Provided that such power shall not be exercised unless the persons passing any examination of such central examining board shall on complying with the laws and rules of the respective councils in other respects be entitled to registration as legally qualified medical practitioners in the provinces whose councils may have conjointly with the said council established such central examining board:

Provided that any examinations conducted by such central examining board shall be held in at least one place within the Territories simultaneously with such examinations held in any province. C. O. 52, s. 37.

### DISCIPLINARY.

**38.** If any registered medical practitioner shall be convicted of any indictable offence or shall after due inquiry be judged by the council to have been guilty of infamous conduct in any professional respect such council may if it sees fit direct the registrar to erase the name of such practitioner from the register and the name of such person shall be erased by the registrar from the register. C. O. 52, s. 38.

**Misconduct o registered practitioner**

**39.** The council may and upon the application of any three registered medical practitioners shall cause inquiry to be made into the case of a person alleged to be liable to have his name erased under the preceding section and on proof of such conviction or infamous or unprofessional conduct shall cause the name of such person to be erased from the register:

**Inquiry**

Provided that the name of a person shall not be erased under this or the last preceding section on account of his adopting or refraining from adopting the practise of any particular theory of medicine or surgery nor on account of a conviction for a political offence out of her Majesty's dominion nor on account of a conviction for an offence which though within the provisions of the last preceding section ought not in the opinion of the council or the committee hereinafter named either from the trivial nature of the offence or from the circumstances under which it was committed, to disqualify a person from practising medicine or surgery. C. O. 52, s. 39.

Costs

**40.** The council may order to be paid out of the funds at their disposal such costs as may to them seem just to any person against whom any complaint has been made which when finally determined is found to have been frivolous and vexatious. C. O. 52, s. 40.

Restoration of name

**41.** Where the council direct the erasure from the register of the name of any person or of any other entry the name of that person or that entry shall not be again entered on the register except by the direction of the council or by the order of a judge of the supreme court. C. O. 52, s. 41.

**42.** If the council think fit in any case they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the council may fix and the registrar shall restore the same accordingly. C. O. 52, s. 42.

Committee of inquiry

**43.** The council shall for the purpose of exercising in any case the powers of erasing from and restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number of whom the quorum shall be three; and a written report of the committee may be acted upon as to the facts therein stated for the purpose of the exercise of the said powers by the council. C. O. 52, s. 43.

**44.** The council shall from time to time appoint and shall always maintain a committee for the purposes prescribed in the last preceding section and subject to the provisions of this Ordinance may from time to time determine the constitution and the number and tenure of office of the members of such committee. C. O. 52, s. 44.

Legal assistance Counsel

**45.** The committee appointed under the preceding section may for the purpose of the execution of their duties under this Ordinance employ at the expense of the council such legal or other assistance as the committee may think necessary or proper and the person whose conduct is the subject of inquiry shall also have the right to be represented by counsel:

Place of inquiry

Provided that all meetings of any such committee when held for taking evidence or otherwise ascertaining the facts shall be held within the judicial district or subjudicial district where the member complained of resides or the alleged offence was committed unless he shall consent to have the inquiry held elsewhere. C. O. 52, s. 45.

**46.** At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts a notice shall be served upon the person whose conduct is the subject of inquiry; and such notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry and shall also specify the time and place of such meeting. The testimony of witnesses shall be taken under oath which the chairman or acting chairman of the committee is hereby authorised to administer and there shall be full right to cross examine all witnesses called and to adduce evidence in defence and reply. C. O. 52, s. 46.

**Notice of inquiry**

**Testimony of witnesses**

**47.** For the purpose of procuring the attendance and evidence of a witness before the committee a judge of the supreme court may on application of any party to the inquiry order the issue by a clerk of the supreme court or a deputy clerk of a writ of subpœna *ad testificandum* or a writ of subpœna *duces tecum*. The rules of evidence on such inquiry and the proceedings and penalties in the case of disobedience to any such writ shall be the same as obtain in civil cases in the said court. C. O. 52, s. 47.

**Subpœna**

**Rules of evidence**

**48.** In the event of the nonattendance of the person whose conduct is the subject of such inquiry the committee may upon proof of personal service of the notice aforesaid in accordance with the provisions of this Ordinance, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence and make their report of the facts without further notice to such person. C. O. 52, s. 48.

**Non-attendance of accused**

**49.** Any person whose name has been ordered to be erased from the register may appeal from the decision of the council to a judge of the supreme court at any time within six months from the date of the order for such erasure; and such judge may upon the hearing of such appeal make such order as to the restoration of the name so erased or confirming such erasure or for further inquiries by the committee or council into the facts of the case and as to costs as shall be just. C. O. 52, s. 49.

**Appeal to judge**

**50.** The appeal may be by summons for the council of the said college to show cause, served upon the registrar and shall be founded upon a copy of the proceedings before the committee, the evidence taken, the committee's report and the order of the council in the matter certified by the registrar; and the registrar shall upon the request of any person desiring to appeal furnish to any such person a certified copy of all pro-

**Procedure**

ceedings, reports, orders and papers upon which the committee or council have acted in making the report or order complained of. C. O. 52, s. 50.

RIGHTS OF REGISTERED PRACTITIONERS.

Rights of persons registered

**51.** Every person registered under the provisions of this Ordinance shall be entitled to practise medicine and surgery including midwifery, or any one of them, in the Territories and to demand and recover in any court in the said Territories, with full costs of suit, reasonable charges for professional aid, advice and visits and the cost of any medicine or surgical appliances rendered or supplied by him to his patients. C. O. 52, s. 51.

Limitation of action

**52.** No duly registered member of the college of physicians and surgeons of the North-West Territories shall be liable to any action for negligence or malpractice by reason of professional services requested or rendered unless such action be commenced within one year from the date when, in the matter complained of, such professional services terminated. C. O. 52. s. 52.

Unregistered person cannot recover charges

**53.** No person shall be entitled to recover any charge in any court of law for any medical or surgical advice or for attendance or for the performance of any operation or for any medicine which he may have prescribed unless he is registered under this Ordinance. C. O. 52, s. 53.

Unregistered persons not to be appointed to office

**54.** No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of the Territories or in any hospital or other charitable institution not supported wholly by voluntary contributions unless he is registered under the provisions of this Ordinance. C. O. 52. s. 54.

Certificates to be by registered persons

**55.** No certificate required by any Ordinance in force or that may hereafter be passed, from any physician or surgeon or medical practitioner shall be valid unless the person signing the same is registered under this Ordinance. C. O. 52, s. 55.

INTERPRETATION.

Interpretation

**56.** The words "legally qualified medical practitioner" or "duly qualified medical practitioner" or any other words implying legal recognition of any person as a medical practitioner or member of the medical profession when used in any

Ordinance or law shall in so far as such Ordinance or law applies to the Territories be construed to mean a person registered under this Ordinance. C. O. 52, s. 56.

### PUBLICATION OF MEDICAL REGISTER.

**Register of practitioners Publication and effect of**

**57.** The registrar shall from time to time and at least annually under direction of the council cause to be printed and published a correct register of the names in alphabetical order according to the surnames with the respective residences in form B in the schedule to this Ordinance or to the like effect together with the medical titles, diplomas and qualifications conferred by any college or body, of all persons appearing on the register as existing on the day of publication and such register shall be called the North-West Territories' Medical Register and a copy of the register for the time being purporting to be so printed and published as aforesaid shall be *prima facie* evidence in all Territorial courts and before all justices of the peace and all others that the persons therein specified are registered according to the provisions of this Ordinance; and subject to the provisions of subsection 2 of this section the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Ordinance.

(2) In the case of any person whose name does not appear in such copy a certified copy, under the hand of the registrar, of the entry of the name of such person on the register shall be evidence that such person is registered under this Ordinance. C. O. 52, s. 57.

### EVIDENCE OF REGISTRATION.

**Evidence of registration**

**58.** In all cases where proof of registration under this Ordinance is required to be made the production of a printed or other copy of the register or of any extract therefrom certified by the registrar shall be sufficient evidence of registration in lieu of the production of the original register; and any certificate purporting to be signed by any person in his capacity of registrar of the council under this Ordinance shall be *prima facie* evidence that such person is such registrar without any proof of his signature or of his being in fact such registrar. C. O. 52, s. 58.

### OFFENCES AND PENALTIES. PROSECUTIONS.

**Practitioners omitting to register**

**59.** Any person entitled to be registered under this Ordinance but who neglects or omits to be so registered shall not be entitled to any of the rights or privileges conferred by registration so long as such neglect or omission continues and he shall be liable to all the penalties imposed by this Ordinance or any other Ordinance in force against unqualified or unregistered practitioners. C. O. 52, s. 59.

Unregistered persons practising for reward

**60.** No unregistered person shall practise medicine or surgery for hire or hope of reward; and if any person not registered pursuant to this Ordinance for hire, gain or hope of reward practises or professes to practise medicine or surgery he shall be guilty of an offence and upon summary conviction thereof be liable to a penalty not exceeding $100. C. O. 52, s. 60.

Pretending to be a physician, etc.

**61.** Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon or general practitioner or assumes any title, addition or description other than he actually possesses and is legally entitled to under this Ordinance shall be liable on conviction thereof before a justice of the peace to a penalty not exceeding $50 nor less than $10. C. O. 52, s. 61.

Assuming false title

**62.** Any person not registered pursuant to this Ordinance who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is registered under this Ordinance or that he is recognised by law as a physician, surgeon or a licentiate in medicine or surgery shall be liable upon summary conviction to pay any penalty not exceeding $100 nor less than $25. C. O. 52, s. 62.

Prosecutions
Penalty

**63.** Any prosecutions under this Ordinance may be brought or heard before a justice of the peace. In case the penalty and cost awarded are not upon conviction forthwith paid the justice may commit the offender to the common gaol there to be imprisoned for any term not exceeding one month unless the penalty and costs are sooner paid. C. O. 52, s. 63.

Onus of proof

**64.** In any prosecution under this Ordinance the burden of proof of registration shall be upon the person charged. C. O. 52, s. 64.

Limitation of prosecutions

**65.** Every prosecution under this Ordinance shall be commenced within six months from the date of the alleged offence. C. O. 52, s. 65.

Council may stay proceedings

**66.** The council by an order signed by the president having the seal of the council appended thereto may stay proceedings in any prosecutions under this Ordinance where it is deemed expedient. C. O. 52, s. 66.

67. All fines and penalties imposed under any of the provisions of this Ordinance and all moneys to be received or levied thereunder shall after the receipt thereof by the person authorised to receive the same be forthwith paid by such person to the treasurer for the uses of the college. C. O. 52, s. 67. Application of fines

### RETURNS.

68. The registrar whenever required by the Lieutenant Governor shall transmit to the Territorial secretary a return certified under oath setting forth all such information and particulars relating to the college as may from time to time be required. C. O. 52, s. 68. General return may be called for

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## SCHEDULE.

### FORM A.

THE MEDICAL PROFESSION ORDINANCE, *A.D.* 1 .

VOTING PAPER FOR ANNUAL ELECTION.

I, *John James Brown,* a registered medical practitioner, vote for the five persons hereinafter named to form the members of the Medical Council of the North-West Territories:

1. George Courtney, Banff.
2. William Jenner, Calgary.
3. Thomas Morgan, Regina.
4. John Mitchell, Moose Jaw.
5. Francis Jones, Qu'Appelle.

And I declare that I am entitled to vote at this election and am not in default in payment of my fees to the council.

Dated, April, 1
*John James Brown.*

Witness:
*Horace Young.*

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### FORM B.

| NAME. | RESIDENCE. | QUALIFICATION. |
|---|---|---|
| A. B. | Banff........ | M.A., M.D., Toronto University. |
| C. D. | Calgary...... | M.D., Glasgow, Scotland. |
| E. F. | Regina....... | L.S.A., London, England. |
| G. H. | Qu'Appelle... | M.D., New York, U.S. |

C. O. 52.

# MEDICAL PROFESSION.

## AMENDMENT.

1903, Sess. 1, c. 12
19 June, 1903

## An Ordinance to amend Chapter 52 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Medical Profession."

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1. 2.** and **3.** * * * * * * * * * * *

Dominion registration to be accepted for Territorial registration

**4.** Whenever there is established under the Act of the Parliament of Canada known as *The Canada Medical Act 1902* or any Act in amendment thereof a register for Canada of medical practitioners under the control of the medical council appointed or elected pursuant to the provisions of the aforesaid Act or Acts then notwithstanding anything in this Ordinance contained any person duly registered in the said medical register for Canada as a medical and surgical practitioner shall be deemed qualified and entitled to be registered in the medical register of the North-West Territories as a duly qualified medical and surgical practitioner and such person and no other shall be registered and such registration shall be made upon production of a certificate under the hand of the registrar of the said medical council for Canada certifying that such person is duly registered in the said medical register for Canada, and upon satisfactory proof of the identity of such person:

Provided that such person may be required to pay such fee for such registration in the Territories as the medical council for the Territories may impose in that behalf and provided that the provisions of this section shall not apply to or affect any person duly registered under the said Ordinance at the time *The Canada Medical Act 1902* becomes operative. 1903, Sess. 1, c. 12, s. 4.

# MEDICAL PROFESSION.

## AMENDMENT.

### An Ordinance to amend Chapter 52 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting the Medical Profession."

1903, sess. 2, c. 15
21 Nov., 1903

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Appeal to judge for refusal to register

**1.** Any applicant for registration under section 29 of *The Medical Profession Ordinance* whose application is refused may apply to a judge of the supreme court for an originating summons directed to the council to show cause why he should not be registered and upon the return of such summons the judge may make an order confirming the refusal of the council or directing the council to register the applicant and may make such order as to costs as to him shall seem just. 1903, Sess. 2, c. 15, s. 1.

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# MERCANTILE AGENTS.

*See* FACTORS AND AGENTS.

# MINES AND MINING COMPANIES.

*See* COAL MINES REGULATIONS.
COMPANIES.

# MINORS, USE OF TOBACCO.

*See* USE OF TOBACCO BY MINORS.

# MORTGAGES OF PERSONAL PROPERTY.

*See* CHATTEL MORTGAGES.

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# MUNICIPAL.

| | |
|---|---|
| *Principal Ordinance* | *C.O. 1898, c. 70* |
| *Amending Ordinance* | *1899. c. 15* |
| *Municipal Grants for patriotic purposes* | *1900, c. 24* |
| *Municipal Amendment Ordinance (erection of villages into towns)* | *1901, c. 23.* |
| *Amending Principal Ordinance* | *1903, c. 18.* |
| *Amending, (as to erection of towns in rural municipalities)* | *1903, sess. 2, c. 22.* |
| *Amending (as to bylaws for contracting debts)* | *1904, c. 6.* |

### An Ordinance respecting Municipalities.

15 March, 1899
C.O. 1898, c. 70

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Municipal Ordinance."* C. O. 70, s. 1.

### INTERPRETATION.

Interpretation clauses

**2.** Unless otherwise declared or indicated by the context, whenever any of the following expressions occur in this Ordinance the meanings hereinafter expressed shall attach to the same, namely:

"Municipality"

1. "Municipality" means any locality the inhabitants of which are incorporated a rural municipality or town;

"Council"

2. "Council" means the municipal council;

"Mayor" "Reeve"

3. "Mayor" means the head of the council of a town municipality and "reeve" means the head of the council of a rural municipality or the person filling for the time being the position of mayor or reeve;

"Land," etc.

4. "Land," "real property" and "real estate" respectively shall include all buildings or other things erected upon or affixed to the land and all machinery or other things so fixed to any buildings as to form in law part of the realty and all mines, minerals, quarries, fossils in and under the same except mines belonging to her Majesty;

"Personal estate," etc.

5. "Personal estate" and "personal property" include all goods, chattels, shares in incorporated companies, interest on mortgages, dividends from bank stock, income and all other property except land and real estate and real property as above defined and except property herein expressly exempted;

"Elector"

6. "Elector" means any person entitled for the time being to vote at any municipal election or in respect of any bylaw in the municipality or polling subdivision as the case may be;

"Owner" "Proprietor"

7. "Owner" or "proprietor" means any person who has the ownership or use of any taxable property or has an agreement for purchase of the same;

"Householder",

8. "Householder" means the occupier of a house but shall not mean or include any person who is a mere lodger or boarder in a house;

"Occupant"

9. "Occupant" means a person who possesses, holds or occupies any land under any title whatsoever or even without title or is occupying lands of the crown under any style of location, agreement or tenure whatever;

"Lot"

10. "Lot" means one of the subdivisions into which a piece or parcel of land has been divided into smaller parcels for purposes of sale, including the buildings and other improvements thereon;

"Revised assessment roll"

11. "Revised assessment roll" means the assessment roll as finally passed by the court of revision and certified by the clerk, notwithstanding that an appeal to a judge in respect thereof may be pending and after the decision of any such appeal the said expression shall mean the said roll with any amendments made thereto by the judge;

"Taxable person"

12. "Taxable person" means:

(*a*) Any person receiving an annual income or the owner of any personal property not exempted from taxation;

(*b*) The owner of lands not exempt from taxation where the same are occupied by the owner or unoccupied, otherwise the occupant;

"Judge"

13. "Judge" means a judge of the supreme court of the North-West Territories;

"Highway" "Road" "Bridge"

14. "Highway," "road" or "bridge" means a public highway, road or bridge respectively;

"Drainage"

15. "Drainage" shall be held to include and to have always included sewerage and sewage;

"Resident"

16. "Resident" shall mean a person residing within the limits of the municipality. C. O. 70, s. 2.

# Part I.

## Municipal Organisation.

### THE BODY CORPORATE.

General rights and obligations of municipalities

**3.** Every municipality in the North-West Territories is hereby declared a body corporate and subject to all the liabilities of a corporation with full power to acquire, hold and alienate both real and personal estate for all municipal purposes and by the same name they and their successors shall have perpetual succession and shall have power to sue and be liable to be sued, implead and be impleaded, answer and be answered unto, in all courts and in all actions, causes and suits at law and in equity whatsoever; and they shall have a common seal with power to alter and modify the same at their pleasure; and they shall be in law capable of receiving by donation, acquiring, holding, disposing of and conveying any property real or movable for the use of said municipality and of becoming parties to any contracts or agreements in the management of the affairs of the said municipality. C. O. 70, s. 3.

**Existing council, officers, etc., continued hereunder**

**4.** The head and members of the council and the officers, bylaws, contracts, property, assets and liabilities of every municipal corporation when this Ordinance takes effect shall be deemed the head and members of the council and all bylaws, contracts, property, assets and liabilities of such council or municipal corporation shall be subject to the provisions of this Ordinance. C. O. 70, s. 4.

**Town municipalities**

**5.** In the case of towns the name of the body corporate shall be "The Town of (*naming the same*)." C. O. 70, s. 5.

**Rural municipalities**

**6.** In the case of rural municipalities the name of the body corporate shall be "The municipality of (*naming the same*)." C. O. 70, s. 6.

**Town councils**

**7.** The council of every town shall consist of the mayor, who shall be the head thereof, and six councillors. C. O. 70, s. 7.

**Rural municipal councils**

**8.** The council of every rural municipality shall consist of a reeve and four councillors.

(2) Should for any reason any municipality be or become insufficiently represented as required respectively by this Ordinance the Lieutenant Governor in Council may make such appointments for office as shall fill the requirements of sections 7 and 8 of this Ordinance. C. O. 70, s. 8.

## ELECTIONS.

**Qualifications of mayors, reeves, councillors**

**9.** The persons eligible for election as mayors, reeves and councillors shall be natural born or naturalised subjects of her Majesty and males of the full age of twenty-one years able to read and write, not subject to any disqualification under this Ordinance and qualified as follows:

(*a*) In towns, being resident within the municipality or within two miles of the limits of the municipality, the owner at the time of the election of freehold, leasehold or partly freehold and partly leasehold real estate rated in their own names on the last revised assessment roll of the municipality to at least the value following, over and above all charges, liens and incumbrances affecting the same: freehold $500, leasehold $1,500.

(*b*) In rural municipalities, being resident within the municipality and the owner at the time of the election of real estate of not less than $400 within the municipality rated in their own names on the last revised assessment roll of the municipality.

(2) *In the case of an election held before the preparation and revision of an assessment roll the provisions of this section requiring the candidates for election to be rated on the assessment roll shall not apply.* C. O. 70, s. 9, and 1903, Sess. 1, c. 19, s. 1.

**Persons disqualified for councillors**

**10.** No judge of any court of civil jurisdiction, no gaoler or keeper of any house of correction, no * * * * * * constable in any town, no assessor, secretary treasurer or other paid official of the municipality, no bailiff, no inspector of licenses, no person having by himself or his partner an interest in any contract with or on behalf of the corporation or being indebted to the municipality, and no surety for an officer or an employee of the municipality, and no person who shall have been convicted of treason or an offence punishable with death or imprisonment for more than five years in any court of law within her Majesty's dominions, shall be qualified to be a member of the council of any municipality.

**Shareholders not disqualified**

(2) No person shall be held to be disqualified from being elected a member of the council of any municipality by reason of his being a shareholder in any incorporated company having dealings or contracts with the council of such municipality or by having a lease of twenty-one years or upwards of any property from the municipality; but no such leaseholder shall vote in the council on any question affecting any lease from the municipality and no such shareholder on any question affecting the company. C. O. 70, s. 10, and 1900, c. 23, s. 1.

**Voters' list**

**11.** The secretary treasurer shall on or before the first day of September in each year prepare a voters' list which shall be an alphabetical list of electors and which shall comprise the names of those persons duly qualified to vote at municipal elections in the municipality and shall post the same in a conspicuous place in his office; such list shall contain opposite the name of each elector a short description of the real property in respect of which he is entitled to vote or if on personalty or income the words "personalty" or "income" as the case may be. C. O. 70, s. 11.

**Application to be placed on voters' list**

**12.** Any person who has been resident in the municipality in the then current year prior to the first day of July and who is otherwise duly qualified whose name does not appear on the voters' list or who is not assessed on the roll high enough to be qualified as a voter or whose name is put down in error or whose name has been omitted from the last revised assessment roll (provided that the taxes are first paid on the property or income in respect of which he claims a vote) may either by himself or agent apply to have the list amended upon giving to the clerk a notice in the following form:

To the secretary treasurer of the municipality of

Take notice that I intend applying to the council to have my name added to the voters' list (*or* corrected *as the case may be*) for the following reasons (*here state the grounds according to the facts*):

(*Signature of applicant*)
*Applicant.*

*Or*

(*Name of applicant*).
*Applicant by his agent.*
(*Signature of agent.*)

C. O. 70, s. 12.

Names to be taken off list

**13.** If any person qualified as a voter on income has left the municipality or if a person has disposed of the property for which he was qualified as a voter under this Ordinance before the first day of October in the then current year or if any person's name is wrongfully put down he shall be deemed disqualified as a voter and any person duly qualified may apply to the council to have the name of the party so or otherwise disqualified struck off the voters' list and the name of the proper party if any substituted therefor by notice to the secretary treasurer of his intention of applying to the council for that purpose as provided in the preceding section. C. O. 70, s. 13.

Notice

**14.** Notices served upon the secretary treasurer under the two preceding sections shall be served in each year on or before the first day of November. C. O. 70, s. 14.

List for court of revision

**15.** On or before the fifth day of November the secretary treasurer shall make a list of all applicants for amendments to the voters' list, stating the names and grounds of each of such applications and shall post the same in a conspicuous place in his office and shall immediately thereafter notify the parties interested of the time and place fixed by the council for hearing such applications. C. O. 70, s. 15.

**16.** On or before the fifteenth day of November in each year the council of each municipality shall meet as a final court of revision on the voters' list and shall hear and determine all applications of which notice has been given to the secretary treasurer as hereinbefore provided and thereupon amend the voters' list in all cases provided for by sections 12 and 13 hereof as may be deemed fit and right and the list so amended shall be the voters' list of the municipality for the year next ensuing. C. O. 70, s. 16. Date of revision

**17.** The council sitting as a final court of revision on the voters' list as aforesaid shall have all the powers and privileges conferred by this Ordinance upon the court of revision for the municipality sitting upon the assessment roll, as to the attendance of witnesses and the imposition and recovery of penalties and as to procedure. C. O. 70, s. 17. Court of revision.

**18.** The council shall at least one week prior to the last Monday in November, by bylaw appoint a returning officer for the municipality, define the districts or subdivisions within the municipality (if such are deemed necessary) and the place or places where the votes are to be polled, and appoint a deputy returning officer for each of the said places where such votes are to be polled. Annual elections

(2) The persons qualified to vote shall be the men, unmarried women and widows over twenty-one years of age who are assessed upon the last revised assessment roll of the municipality for income or personal property for $200 or upwards or who are named upon the said assessment roll as either occupants or owners of real property held in their own right or (in the case of married men) held by their wives for $200 or upwards and whose names appear in the voters' list founded upon such roll: Qualification of voters

Provided always that a municipality may, by bylaw, declare that no person shall be entitled to vote who has not on or before a day to be named therein paid all taxes due by him to such municipality either for the current year or all arrears of taxes or both. C. O. 70, s. 18. Proviso as to nonpayment of taxes

**19.** In the municipalities which have passed a bylaw under the provisions of the proviso to the next preceding section on or before the day of nomination of candidates the secretary treasurer shall prepare and verify on oath a correct alphabetical list of names of all persons who have not complied with the terms of any such bylaw, such list to be called the "defaulter's list." Defaulter's list

(2) Any person named in such defaulter's list may vote if at the time of tendering his vote he produces and leaves with the officer holding such election a certificate from the secretary treasurer of the municipality showing that the taxes (in respect of which default has been made) have been paid; and such officer shall file such certificate, receive the vote and note the same on the defaulter's list. C. O. 70, s. 19.

Oath of election officers

**20.** Every returning officer, deputy returning officer, poll clerk, candidate or agent authorised to be present at any polling place shall, before exercising any of the functions of such returning officer, deputy returning officer, poll clerk, candidate or agent at any polling place, take and subscribe before a justice of the peace or the clerk of the municipality an oath in form as follows:

I, *A.B.*, do swear that I will not at any time disclose to any one the name of any person who has voted at the election to be held in the municipality of on the day of A.D. 1 ; and that I will not unlawfully attempt to ascertain the candidate or candidates for whom an elector has voted; and will not in any way aid in the unlawful discovery of the same; and that I will keep secret all knowledge which may come to me of the person for whom an elector has voted. So help me God. C. O. 70, s. 20.

Election notice

**21.** The returning officer shall, by notice in form A in the schedule to this Ordinance, posted up in ten conspicuous places within the municipality and at least six days previous to such meeting, call a meeting of the electors within the same on the first Monday in December for the purpose of nominating candidates for the offices of mayor or reeve and as many councillors as may be required for the term commencing on the first day of January next ensuing. C. O. 70, s. 21.

Nomination proceedings

**22.** At the time and place named in the notice the returning officer shall declare the meeting open for the purpose of receiving nominations and any person whose name appears on the last revised assessment roll may propose or second the nomination of any duly qualified persons to serve as mayor, reeve or councillor; and the meeting shall remain open until noon when if the number of * * * persons nominated to serve as mayor, reeve or councillors for the municipality does not exceed the requisite number the returning officer shall declare the persons so nominated duly elected, as hereafter provided:

Term of service

1. As mayor or reeve for the ensuing year, the candidate duly nominated for that office;

2. As councillors, at the first election the three candidates in town municipalities and the two candidates in rural municipalities who shall have been first nominated shall be declared elected for the two years next ensuing and the three candidates in town municipalities and the two candidates in rural municipalities who shall have been next nominated shall be declared elected for the next ensuing year and at each election thereafter councillors shall be elected for a term of two years:

Written consent

Provided always that every nomination for mayor, reeve or councillor shall be accompanied by a written consent from the person named in each nomination to accept the office if elected. C. O. 70, s. 22, and 1902, c. 9, s. 1.

Poll declared

**23.** In the event of more than the required number of * * persons being nominated for the municipality the returning officer shall declare that a poll will be held in such municipality and name the time (which shall be the same day of the week as the nomination in the next following week), the place and the deputy returning officer or deputy returning officers, as the case may be, appointed to hold the same and the time and place where the result of such poll shall be declared. C. O. 70, s. 23, and 1902, c. 9, s. 2.

Election notices

**24.** Whenever a poll has to be taken the returning officer shall without any unreasonable delay after the nomination cause to be posted up in at least ten conspicuous places within the municipality a notice in form B in the schedule to this Ordinance. C. O. 70, s. 24.

Candidates may withdraw

**25.** Any candidate nominated may withdraw at any time after nomination and before the close of the poll on polling day by filing with the returning officer or deputy returning officer a declaration in writing to that effect signed by himself in the presence of the returning officer or deputy returning officer, a justice of the peace or a notary public and any votes cast for any such candidate shall be null and void. C. O. 70, s. 25.

Hours of polling

**26.** The poll shall be kept open from nine o'clock (standard time) in the forenoon until five o'clock (standard time) in the afternoon of the same day. C. O. 70, s. 26.

Agent of candidate

**27.** Any person producing to the deputy returning officer at any time a written authority to represent a candidate as agent at a polling place shall be recognised as such by the deputy returning officer. C. O. 70, s. 27.

Direction for voting

**28.** Every elector who is entitled to a vote in more than one polling subdivision shall vote for mayor in towns and for reeve in rural municipalities at the polling place or polling subdivision in which he is resident if qualified to vote therein; or when he is a nonresident or is not entitled to vote in the polling subdivision where he resides then where he first votes and there only.

Penalty for voting twice

(2) Any person who votes for mayor or reeve after having already voted for mayor or reeve at some other polling place at that election shall incur a penalty of $50 to be recovered with full costs of suit by any person who will sue for the same in any court having jurisdiction where the offence was committed and any person against whom judgment was rendered shall be ineligible either as a candidate or elector at the next annual elections.

Evidence of voting

(3) The receipt by any voter of a ballot paper within the polling booth shall be *prima facie* evidence that he has there and then voted. C. O. 70, s. 28.

Oaths

**29.** At the request of any candidate or his agent or of any elector the following oath shall be administered to any person tendering his vote at such election:

You do solemnly swear that you are the person named or purporting to be named by the name of            on the voters' list now shown to you; that you have not before voted at this election; and that you have not received or been promised any consideration whatsoever for voting at this election and (*if the municipality has passed a bylaw requiring all persons to have paid their taxes to entitle them to vote*) that you have paid all taxes in arrear due by you to the municipality of            ; that you are of the full age of twenty-one years; (*if a woman* that you are unmarried or a widow). C. O. 70, s. 29.

Poll clerk Powers and duties

**30.** Every deputy returning officer may by writing under his hand appoint a poll clerk who in the absence of such deputy returning officer or on his failure or inability to fulfil the duties required of him by this Ordinance shall have all the powers of such deputy returning officer. C. O. 70, s. 30.

Ballot

**31.** The votes at all elections shall be given by ballot in manner hereinafter set forth. C. O. 70, s. 31.

Form of ballot

**32.** Every ballot paper shall contain the names of the candidates alphabetically arranged and all ballot papers shall be in form C in the schedule to this Ordinance. C. O. 70, s. 32.

R. O. shall procure ballots and boxes

**33.** The returning officer shall procure or cause to be procured as many ballot boxes as there are polling subdivisions in the municipality and cause to be printed a sufficient number of ballot papers for the purposes of the election. C. O. 70, s. 33.

Delivery of ballot boxes

**34.** The returning officer shall at least two days before polling day deliver one of the ballot boxes to each deputy returning officer. C. O. 70, s. 34.

Ballots to be delivered

**35.** The returning officer shall before the poll is opened cause to be delivered to every deputy returning officer the ballot papers, materials for marking the ballot papers and a sufficient number of printed directions for voting in form D in the schedule to this Ordinance. C. O. 70, s. 35.

Voters list

**36.** The secretary treasurer of the municipality shall supply to each deputy returning officer before the opening of the poll a voters' list in form E in the schedule to this Ordinance, containing the names of all the electors at that polling subdivision and a copy of the defaulters' list if any as provided in section 19 of this Ordinance. C. O. 70, s. 36.

Polling booth

**37.** Every deputy returning officer shall provide a compartment at the polling place to which he is appointed where the voters can mark their ballots screened from observation, and may appoint a constable to maintain order at the polling place. C. O. 70, s. 37.

Proceedings at opening of poll

**38.** Every deputy returning officer shall immediately before the commencement of the poll open the ballot box and call such persons as may be present to witness that it is empty; he shall then lock and properly seal the same to prevent its being opened without breaking the seal and then place the box in view for the reception of the ballots and the seal shall not be broken nor the box unlocked during the time appointed for taking the poll C. O. 70, s. 38.

Conduct of poll

**39.** Proceedings at the poll shall be as follows:

Use of voters' list

1. On a person presenting himself for the purpose of voting the deputy returning officer shall ascertain that the name of such person is entered or purports to be entered upon the voters' list of his polling division;

Entry when oath is taken

2. If such person takes the oath or affirmation prescribed by this Ordinance the deputy returning officer shall cause to be entered opposite the name of such person in the proper column of the voters' list "sworn" or "affirmed," according to the fact;

Entry when oath is not taken

3. When such person as aforesaid has been required to take the oath or affirmation prescribed by this Ordinance and refuses to take the same the deputy returning officer shall cause to be entered in the proper column of the voters' list opposite the name of such person the words "refused to be sworn" or "refused to affirm," according to the fact;

Consequence of refusal of oath

4. No person who has refused to take the oath or affirmation prescribed by this Ordinance when requested so to do shall receive a ballot paper or be admitted to vote;

Entry when oath is objected to

5. When the vote is objected to the deputy returning officer shall cause to be entered in the proper column of the voters' list opposite the voter's name the words "objected to" and shall add thereto the name of the candidate by whom or on behalf of whom the objection is made;

Ballot paper to be given to voter

6. After the proper entries respecting a person claiming to vote have been made in the voters' list in the manner prescribed the deputy returning officer shall stamp or sign his initials upon the back of the ballot paper and shall deliver the same to such person;

Explanations may be made

7. The deputy returning officer may and upon request shall either personally or through his poll clerk explain to the voter, as concisely as possible, the mode of voting;

Voters' list to be marked

8. The deputy returning officer shall cause to be placed in the proper column of the voters' list a mark opposite the name of every voter receiving a ballot paper;

Only one voter to vote at a time

9. Only one person claiming to be entitled to vote shall be allowed at a time in the apartment where the election is held;

Method of voting

10. Each person receiving a ballot paper shall forthwith proceed to the compartment provided for marking ballots and shall mark his ballot paper by placing a cross opposite the name of the candidate or candidates for whom he desires to vote; he shall then fold the ballot paper so as to conceal the names of the candidates and the marks on the face of the paper but so as to expose the initials of the deputy returning officer and on leaving the compartment shall forthwith and without exposing the face of the ballot paper to any one or in any manner making known to any person for or against whom he has voted deliver the same to the deputy returning officer who shall without unfolding it verify his initials and at once deposit it in the ballot box in the presence of all other persons entitled to be and then present in the polling place;

Voter to be alone when marking ballot

11. While any voter is in the compartment for the purpose of marking his ballot paper no other person shall be allowed in the same compartment or be in any position from which he can see the manner in which such voter marks his ballot paper except as hereinafter provided;

**Where voter is unable to mark his ballot**

12. In case any elector states he is unable to mark his ballot paper:

(*a*) The deputy returning officer shall in the presence of the candidates or their agents present, if required by any candidate or agent, administer an oath to such elector that he is unable to mark his ballot paper and shall then cause the vote of such elector to be marked as he directs and shall then place the same in the ballot box; and

(*b*) The deputy returning officer shall state in the voters' list opposite the name of such elector in the column for remarks the fact that the ballot paper was marked by him at the request of the voter and why;

**Where ballot paper is spoiled**

13. Any elector who has spoiled his ballot paper in marking it and discovers the fact before it has been placed in the ballot box may on returning the same to the deputy returning officer and proving the fact to him obtain another ballot paper and the deputy returning officer shall mark upon the face of the ballot paper so returned the word "cancelled" and all ballot papers so marked shall be preserved by the deputy returning officer and by him returned to the returning officer in the manner hereinafter provided;

**Persons declining to vote**

14. Any person who has received a ballot paper and who leaves the polling place without delivering the same to the deputy returning officer in the manner provided or if, after receiving the same, refuses to vote shall forfeit his right to vote at the election then pending and the deputy returning officer then shall make an entry in the voters' list opposite the name of such person in the column for remarks, that such person received the ballot paper and did not return the same or that the person returned the ballot paper and declined to vote, in which latter case the deputy returning officer shall mark upon the face of the ballot paper the word "declined," and all ballot papers so marked shall be preserved by the deputy returning officer and by him returned to the returning officer in the manner hereinafter provided;

**Persons who may vote in other polling divisions than those they belong to**

15. Any deputy returning officer, candidate, agent or poll clerk who belongs to a polling division other than the one in which he is performing the duties of such, may vote at the polling station where he is so engaged provided he produces a certificate from the secretary treasurer of the municipality that he is a qualified voter within the same, and the deputy returning officer shall attach such certificate to the voters' list. C. O. 70, s. 39.

Close of poll

**40.** Immediately after the close of the poll the deputy returning officer shall in the presence of the poll clerk, if there be one, and such of the candidates with their agents (of whom there shall not be more than two for any candidate) as may be present, open the ballot box and proceed as follows:

1. He shall examine the ballot papers and reject all those on the back of which his initials are not found or on which more votes are given than the elector is entitled to give or on which anything appears by which the voter can be identified and any ballot paper on which votes are given for a greater number of candidates for any office than the voter is entitled to vote for shall be void as regards all candidates for the said office;

2. Take a note of any objection made by any candidate or his agent to any ballot paper found in the ballot box and decide on any question arising out of the objection;

3. Number such objection and place a corresponding number on the back of the ballot paper with the word "allowed" or "disallowed" as the case may be, with his initials;

4. Count the votes given for each candidate from the ballot papers not rejected and make a written statement of the number of votes given to each candidate and of the number of ballot papers rejected and not counted by him which statement shall be then signed by him and such other persons authorised to be present as may desire to sign the same;

5. The deputy returning officer shall then certify under his own hand in full words on the voters' list the total number of persons who have voted at the polling place at which he is appointed and make up into separate packets:

(*a*) The statement of votes given for each candidate and of the rejected ballot papers;

(*b*) The used ballot papers which have not been objected to but which have been counted;

(*c*) The ballot papers which have been objected to but which have been counted;

(*d*) The rejected ballot papers;

(*e*) The declined and cancelled ballot papers;

(*f*) The voters' list and, if any, the defaulters' list;

which packets, closed up and sealed with his own seal and with the seals of any persons present desiring to affix their seals thereto and marked on the outside with a memorandum designating their respective contents, shall by the deputy returning officer be transmitted forthwith to the returning officer;

6. Before returning the said *voters' list* to the returning officer the deputy returning officer shall make and subscribe before such returning officer or a justice of the peace or the poll clerk an affidavit in the form following this subsection; which affidavit shall thereafter be annexed to the *voters' list* and such *voters' list* and declaration may be inspected at any time in the presence of the returning officer by any elector of the municipality:

I, *C.D.*, the undersigned, deputy returning officer for ward (*or* polling subdivision) No.      of the town (*or* rural municipality *as the case may be*) of      do swear (*or if he is a person permitted by law to affirm* do affirm) that to the best of my knowledge the *voters' list* used in and for the said ward (*or* polling subdivision) No.      of the said town (*or* rural municipality *as the case may be*) of      was so used in the manner prescribed by law and that the entries required by law to be made therein were correctly made.

Sworn (*or* affirmed) before me
at      , this      day
of      , A.D. 1
*X.Y.*,
*Justice of the Peace.*
*Or*

*C.D.*,
*Deputy Returning Officer.*

Returning officer of the town (*or* rural municipality *as the case may be*) of

7. Every deputy returning officer upon being requested to do so shall give to the persons authorised to attend at his polling place a certificate showing the total number of votes cast at his polling place for each candidate and the number of rejected ballot papers. C. O. 70, s. 40, and 1902, c. 9, s. 3.

Final count and declaration

**41.** At the time and place fixed for declaring the result of the election the returning officer shall open the packet containing the statement of the number of votes given for each candidate and shall publicly declare elected the candidate or candidates as hereinafter provided and shall deliver or forward to each candidate a certificate of his election showing the total number of votes cast for each candidate and those declared elected by him:

1. As mayor or reeve for the ensuing year, the candidate receiving the highest number of votes;

2. As councillors, at the first election the three candidates in town municipalities and the two candidates in rural municipalities who have received the highest number of votes shall be declared elected for the two years next ensuing and the three

candidates in town municipalities and the two candidates in rural municipalities who have received the next highest number of votes shall be declared elected for the next ensuing year and at each election thereafter the councillors receiving the highest number of votes shall be declared elected for a term of two years.

(2) In case it appears that two or more of the candidates have an equal number of votes the returning officer shall at the time he declares the result of the poll give a vote for one or more of such candidates so as to decide the election and except in such case the returning officer shall not vote. C. O. 70, s. 41.

isposal of ballot boxes

**42.** After the election the ballot boxes, packets and returns shall be transmitted to the secretary treasurer of the municipality and the secretary treasurer shall be responsible for their safe keeping and for their delivery when required. C. O. 70, s. 42.

Destruction of ballots

**43.** The secretary treasurer of the municipality having retained for three months all ballot and other papers transmitted to him as aforesaid shall then destroy the same unless otherwise ordered by the supreme court or a judge thereof. C. O. 70, s. 43.

Returning officer

**44.** The secretary treasurer of the municipality shall unless otherwise directed by bylaw of the council, be returning officer of the municipality; and any returning officer may exercise and perform the powers and duties of a deputy returning officer at any one polling place in the municipality to be selected by such returning officer or as directed by the council. C. O. 70, s. 44.

Ballots may not be inspected

**45.** No person shall be allowed to inspect any ballot papers or other documents or papers other than the voters' list used at an election, in the hands of the secretary treasurer, except under the order of the court or judge as aforesaid which order shall state the time and place for inspecting such papers and name the persons to be present thereat. C. O. 70, s. 45.

Expenses

**46.** All reasonable expenses incurred at any election under this Ordinance shall be paid by the municipality upon production of accounts verified as the council of said municipality may direct. C. O. 70, s. 46.

## ELECTION OF SCHOOL TRUSTEES.

**47. 48. 49. 50. 51. 52. 53.** * * * * * * * * *

## CORRUPT PRACTICES.

**54.** The following persons shall be deemed guilty of bribery and shall be punished accordingly: Corrupt practices

1. Every person who directly or indirectly by himself or by any other person in his behalf gives, lends, or agrees to give or lend or offers or promises money or valuable consideration or gives or procures or agrees to give or procure or offers or promises any office, place or employment to or for any voter or to or for any person on behalf of any voter or to or for any person in order to induce any voter to vote or refrain from voting at a municipal election or upon a bylaw for raising money or creating a debt upon a municipality or part of a municipality for any purpose whatever or who corruptly does any such act as aforesaid on account of such voter having voted or refrained from voting at such election or upon such bylaw;

2. Every person who directly or indirectly by himself or by any other person in his behalf makes any gift, loan, offer, promise or agreement as aforesaid to or for any person in order to induce such person to procure or endeavour to procure the return of any person to serve in any municipal council or to procure the passing of any bylaw as aforesaid or the vote of any voter at a municipal election or for such bylaw; Corrupt practices.

3. Every person who by reason of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any person in the municipal election or to procure the passing of any bylaw as aforesaid or the vote of any voter at a municipal election or for such bylaw;

4. Every person who advances or pays or causes to be paid money to or for the use of any person with the intent that such money or any part thereof shall be expended in bribery at a municipal election or at any voting upon a bylaw as aforesaid or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at such election or at the voting on such bylaw;

5. Every voter who before or during a municipal election or the voting on such bylaw directly or indirectly by himself or any other person in his behalf receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or

employment for himself or for any other person for voting or agreeing to vote or refraining or agreeing to refrain from voting at such election or upon such bylaw;

6. Every person who after such election or the voting upon any such bylaw directly or indirectly by himself or any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any such election or upon any such bylaw;

7. Every person who hires horses, teams, carriages or other vehicles for the purpose of conveying electors to or from the polls and every person who receives pay for the use of any horse, teams, carriages or vehicles for the purpose of conveying any electors to or from any polls as aforesaid;

8. Every person who directly or indirectly by himself or by any other person on his behalf makes use of or threatens to make use of any force, violence or restraint or inflicts or threatens the infliction by himself or by or through any other person of any injury, damage or loss or in any manner practises intimidation upon or against any person in order to induce or compel such person to vote or refrain from voting or on account of such person having voted or refrained from voting at any election or who in any way prevents or otherwise interferes with the free exercise of the franchise of any voter shall be deemed to be guilty of undue influence and be subject to the penalty hereinafter mentioned. C. O. 70, s. 54.

Lawful expenses

**55.** The actual personal expenses of a candidate, his expenses for actual professional services performed and *bona fide* payments for the fair cost of printing and advertising shall be held to be the expenses lawfully incurred and the payment thereof shall not be a contravention of this Ordinance. C. O. 70, s. 55.

### CONTROVERTED ELECTIONS.

Institution of proceedings

**56.** If within six weeks after the election or one month after the acceptance of office by the person elected a relator shows by affidavit to any such judge reasonable grounds for supposing that the election was not legal or was not conducted according to law or that the person elected thereat was not duly elected or was guilty of bribery or undue influence and if the relator either deposits with the clerk of the court $200 or enters into a bond in the sum of $200 with two sureties, to be allowed as sufficient by the judge upon affidavit of justification, in the sum of $100 each, conditioned to prosecute the writ with effect or to pay the party against whom the same is brought any costs which may be adjudged to him against the relator, the judge shall direct a writ of summons in the nature of a *quo warranto* to be issued to try the matters complained of. C. O. 70, s. 56.

Investigation of election of relator

**57.** In case the relator alleges that he himself or some other person has been duly elected the writ shall be to try the validity both of the election complained of and the alleged election of the relator or other person. C. O. 70, s. 57.

Writ may apply to elections of two persons

**58.** In case the grounds of objection apply equally to two or more persons elected the relator may proceed by one writ against such persons. C. O. 70, s. 58.

Judgment on one or more writs

**59.** When more writs than one are brought to try the validity of an election or the validity of the election of more than one person the judge may give one judgment upon all or a separate judgment upon each or more of them as he thinks fit. C. O. 70, s. 59.

Issue and return of writ

**60.** The writs shall be issued by the clerk of the supreme court and shall be returnable before the judge in chambers at a place named in the writ upon the eighth day after service computed exclusively of the day of service or upon any later day named in the writ. C. O. 70, s. 60.

Personal service

**61.** The writ shall be served personally unless the party to be served keeps out of the way to avoid personal service in which case the judge upon being satisfied thereof by affidavit or otherwise may make an order for such substitutional service as he thinks fit. C. O. 70, s. 61.

Returning officer or deputy may be a party

**62.** The judge before whom the writ is made returnable or is returned may if he thinks proper order the issue of a writ of summons at any stage of the proceedings to make the returning officer or any deputy returning officer a party thereto. C. O. 70, s. 62.

Intervention

**63.** The judge before whom the writ is returned may allow any person entitled to be a relator to intervene and prosecute and may grant a reasonable time for the purpose and any intervening party shall be liable or entitled to costs like any other party to the proceedings. C. O. 70, s. 63.

Powers of judge

**64.** The judge shall in a summary manner upon statement and answer without formal pleadings hear and determine the validity of the election and may by order cause the assessment rolls, tax roll, voters' list and any other records of the election to be brought before him and may inquire into the facts on affidavit or by oral testimony. C. O. 70, s. 64.

Disqualification of candidate

**65.** Any candidate elected at any municipal election who shall be found guilty of any act of bribery or using undue influence shall forfeit his seat and shall be rendered ineligible as a candidate at any municipal election for two years thereafter. C. O. 70, s. 65.

Penalty

**66.** Any person who is adjudged guilty of bribery shall incur a penalty of $25 and shall be disqualified from voting at any municipal election or upon a bylaw for the next succeeding two years. C. O. 70, s. 66.

Recovery of penalty

**67.** The penalties imposed by the preceding section shall be recoverable with full costs of suit by any person who sues for the same in the supreme court in the judicial district in which the offence was committed; and any person against whom judgment is rendered shall be ineligible either as a candidate or a municipal voter until the amount which he has been condemned to pay is fully paid and satisfied. C. O. 70, s. 67.

Report of judge

**68.** It shall be the duty of the judge who finds any candidate guilty of a contravention of section 54 of this Ordinance or who condemns any person to pay any sum for any offence against the said section to report the same forthwith to the secretary treasurer of the municipality wherein the offence has been committed. C. O. 70, s. 68.

List of persons disqualified

**69.** The secretary treasurer of every municipality shall duly enter in a book to be kept for that purpose the names of all persons within his municipality who have been adjudged guilty of any offence as aforesaid and of which he has been notified as aforesaid. C. O. 70, s. 69.

Witness fees

**70.** Any witness shall be bound to attend before the judge of the supreme court before whom the complaint is made upon being served with the order of the judge directing his attendance or his attendance with documents and upon payment of the same fees as are paid in civil cases for his attendance or his attendance with documents in the same manner as if he had been directed by a writ of subpœna or a subpœna *duces tecum* so to attend and he may be punished for contempt and shall be liable to all the penalties for such nonattendance in the same manner as if he had been served with a writ of subpœna or a writ of subpœna *duces tecum*. C. O. 70, s. 70.

**71.** All proceedings other than application in the nature of a *quo warranto* against any person for any violation of section 54 of this Ordinance shall be commenced within thirty days after the municipal election at which the offence is said to have been committed or within thirty days after the day of voting upon a bylaw as aforesaid. C. O. 70, s. 71. **Limitation of time for proceedings**

**72.** In case the validity of the election of mayor, reeve or councillor is contested the same may be tried by a judge in chambers and any candidate at the election or any elector of the municipality may be the relator for the purpose. C. O. 70, s. 72. **Trial in chambers** **Relator**

**73.** In case the election complained of is adjudged invalid the judge shall forthwith by writ cause the person found not to have been duly elected to be removed and in case the judge determines that any other person was duly elected the judge shall forthwith order a writ to issue causing such other person to be admitted and in case the judge determines that no other person was duly elected instead of the person removed the judge shall by the writ cause a new election to be held. C. O. 70, s. 73. **New election if election invalid**

**74.** In case the election of all the members of a council be adjudged invalid the writ for their removal and for the election of new members in their place or for the admission of others adjudged legally elected and an election to fill up the remaining seats in the council shall be directed to the sheriff of the judicial district in which the election took place and the sheriff shall have all the powers for causing the election to be held which a municipal council has in order to supply vacancies therein. C. O. 70, s. 74. **Writ directed to sheriff** **Powers of sheriff**

**75.** Any person whose election is complained of may unless such election is complained of on the ground of corrupt practices on the part of such person, within one week after service on him of the writ transmit postpaid through the post office directed to the clerk of the judicial district who issued the writ or may cause to be delivered to such clerk, a disclaimer signed by him to the effect following: **Disclaimer**

I, *A.B.*, upon whom a writ of summons in the nature of a *quo warranto* has been served for the purpose of contesting my right to the office of councillor for the municipality of do hereby disclaim the said office and all defence of any right I may have to the same.

Dated day of

(*Signature*) *A.B.*

C. O. 70, s. 75.

Indorsement

**76.** Such disclaimer or the envelope containing the same shall be indorsed on the outside thereof with the word "disclaimer" and be registered at the post office where mailed. C. O. 70, s. 76.

Service of disclaimer

**77.** Where there has been a contested election the person elected may at any time after the election and before his election is complained of deliver to the secretary treasurer of the municipality a disclaimer signed by him as follows:

I, *A.B.*, do hereby disclaim all rights to the office of councillor for the municipality of , and all defence of any right that I may have to the same. C. O. 70, s. 77.

Effect of disclaimer

**78.** Where a disclaimer has been made in accordance with the preceding sections it shall operate as a resignation and the candidate having the next highest number of votes shall then become the councillor or other officer as the case may be. C. O. 70, s. 78.

Notification to council

**79.** The secretary treasurer of the council shall forthwith communicate the same to the council. C. O. 70, s. 79.

Costs

**80.** No costs shall be awarded against any person duly disclaiming unless the judge is satisfied that such party consented to his nomination as a candidate or accepted the office in which case the costs shall be in the discretion of the judge. In all cases not otherwise provided for costs shall be in the discretion of the judge. C. O. 70, s. 80.

Decision final

**81.** The decision of the judge shall be final and he shall immediately after his judgment return the writ and judgment with all things had before him touching the same, except such as he may otherwise order, into the court from which the writ issued, there to remain of record as a judgment of the said court and he shall as occasion requires enforce such judgment by writ in the nature of a writ or peremptory *mandamus* and by writs of execution for the costs awarded. C. O. 70, s. 81.

Enforcement of judgment

Rules of court

**82.** The judges of the supreme court sitting *en banc* or a majority of them may by rules settle the forms of the writs of execution, certiorari, mandamus and execution under this Ordinance and may regulate the practice respecting the suing out, service and execution of such writs and the punishment for disobeying the same or any other writ or order of the court or judge and respecting the practice generally in hearing and determining the validity of such elections or appointments and provide a tariff of costs thereon and may from time to time

Forms and costs

rescind, alter or add to such rules, but all existing rules shall remain in force until rescinded or altered as aforesaid. C. O. 70, s. 82.

# Part II.

## Councils.

### DUTIES AND POWERS.

First meeting

**83.** The first meeting of the council elected shall be held on the first Monday in January in each year except when such Monday is a public holiday in which case the meeting shall take place on the next subsequent day not a public holiday and the council of the previous year shall hold office up to the first meeting of the new council notwithstanding the fiscal year expires on the thirty-first day of December in each year and in case of neglect or refusal of the electors in a municipality to elect a council as hereinbefore provided until a new council is appointed under the provisions of this Ordinance. C. O. 70, s. 83.

Council to hold office till successors elected

Quorum

**84.** A majority of the council shall be a quorum at any meeting but when the council consists of only five members the concurrent votes of at least three shall be necessary to carry any resolution or other measure. C. O. 70, s. 84.

Jurisdiction over highways bridges and streams

**85.** Every municipality shall have jurisdiction over all highways within the same and the Lieutenant Governor in Council may give a municipality jurisdiction over any highway, bridge or stream dividing municipalities or adjacent thereto when not dividing municipalities and may determine what portion of highway, bridge or stream dividing municipalities shall be within the jurisdiction of each. C. O. 70, s. 85.

Cemeteries

**86.** Whenever a municipality acquires by purchase, donation or otherwise any plot of land for cemetery purposes outside of the limits of the municipality the provisions of *The Cemetery Ordinance* shall apply *mutatis mutandis* to the said municipality and the council may pass bylaws for raising money for improving, caring for and beautifying such land. C. O. 70, s. 86.

Certain works to be kept in repair

**87.** Every municipality shall keep in repair all sidewalks crossings, sewers, culverts and approaches, grades and other works made or done by its council and on default so to keep in repair shall be responsible for all damages sustained by any person by reason of such default but the action must be brought within six months after the damages have been sustained. C. O. 70, s. 87.

Control of ferries and bridges

**88.** Municipalities may control and license ferrics and bridges erected or authorised by them within their jurisdiction and pass bylaws allowing the collection of tolls thereon for periods not exceeding five years. C. O. 70, s. 88.

May make bylaws for government of proceedings

**89.** Every council may make regulations and bylaws not provided for by this Ordinace and not contrary to law for governing its proceedings, calling meetings, the conduct of its members, appointing committees, and generally such regulations as the good of the municipality may require and may repeal, alter and amend its own bylaws except where bylaws are made for the purpose of raising money, levying assessments or striking rates. C. O. 70, s. 89.

Councillors indemnity

**90.** Every council may pass a bylaw for paying the members thereof, which shall in no case exceed the sum of *$3.00* per day and ten cents for every mile necessarily travelled coming to and returning from the business of the council:

Number of meetings

Provided that the number of days for which each councillor shall be paid during the year for which he is elected shall not exceed *15*. C. O. 70, s. 90, and 1902, c. 9, s. 4.

Duration of office of employees

**91.** All municipal officers shall hold office until removed by the council, or as expressed in their appointments. C. O. 70, s. 91.

No appointment by tender

**92.** No municipal council shall make any appointment to office or arrangement for the discharge of the duties thereof by tender or to applicants at the lowest remuneration. C. O. 70, s. 92.

Duties of officers Security

**93.** The municipal council in addition to defining the duties of its officers shall exact security from the secretary treasurer and such other officers as they may determine for the faithful performance of their duties and it shall be the duty of every council at its first meeting or within a reasonable time thereafter to examine and renew the securities given by its officers. C. O. 70, s. 93.

**Liabilities of officers**

**94.** Municipal officers shall be liable for their acts and for damage arising from their refusal or neglect to discharge their duties to the municipality in addition to penalties imposed for violation of any of the provisions of this Ordinance. C. O. 70, s. 94.

### BYLAWS.

**Bylaws**

**95.** The council of every municipality may pass bylaws for:

**Raising revenue**

1. The raising of its revenue by assessment on real and personal property and income; authorising the chairman and the treasurer to borrow from any person or bank or corporation, such sum of money as may be required to meet the expenditure of the municipality until such time as the taxes levied therein can be collected; but such sum of money so borrowed shall not exceed the estimated revenue of the municipality of the then current year and the collection and expenditure of the same;

**Prevention of cruelty**

2. The prevention of cruelty to animals not being inconsistent with any Statute or Ordinance in that behalf;

**Agricultural societies**

3. Granting aid to agricultural societies *or to boards of trade or incorporated mechanics' and literary institutes within the municipality;*

**Prevention of abuses**

4. The prevention or removal of abuses prejudicial to agriculture not otherwise provided for by law;

**Poor relief**

5. The relief of the poor;

**Police**

6. Appointing policemen, watchmen and patrols and regulating and defining their duties and their remuneration;

**Public health**

7. Providing for the health of the municipality and against the spreading of contagious or infectious diseases;

**Health officers, Scavenging**

8. Appointing and defining duties of a board of health, health officers and scavengers;

**Planting trees**

9. *Providing for planting and protecting trees on highways and other public places;*

**Census**

10. Taking the census of the municipality;

**Appointing officials**

11. Appointing such officials under such names as the council may deem necessary for the carrying out of the work of the corporation, defining their duties and providing for their remuneration;

**Expropriating land**

12. Entering upon and taking and using and acquiring so much real property as may be required for highways, roads, streets, bridges, alleys and byways in the municipality without the consent of the owners of such real property and without the consent of the owners taking and acquiring for the purpose of preventing the operation of any and all such coal mines and coal pits within, upon or under any portion of the limits of the

municipality (being a town) as in the opinion of the municipal council injuriously affect or endanger property within the limits of the municipality making due compensation therefor to the parties entitled thereto; and such compensation may be determined by arbitration under the provisions of this Ordinance where a mutual agreement is not possible;

Public works 13. Laying out, constructing, repairing and maintaining highways, roads, streets, bridges, alleys and byways;

Public buildings 14. The erection of halls, lockups, weigh houses, markets and such buildings as may be beneficial to the municipality and to expropriate lands therefor;

Public markets 15. The establishment and regulation of public markets and imposition of penalties for light weights, short measurement Selling on streets and of any breach of contract in public markets and restraining or preventing selling on the streets;

Public scales 16. Establishing municipal scales for weighing or measuring and compelling the weighing or measuring thereon or thereby of any thing sold by weight or measurement in the public market and establishing or regulating the fees to be paid for weighing or measuring on such scales and compelling dealers in coal to weigh upon such scales all coal sold by them if requested to do so by the purchaser;

Parks 17. Purchasing, controlling, erecting or establishing parks;

Public wells 18. Making and regulating the use of public wells, cisterns and reservoirs;

Regulating public buildings 19. Regulating the size and number and construction of doors in churches, theatres and halls or other places of public worship, public meetings or places of amusement and the street gates leading thereto and also the size and structure of stairs and stair railings in all such buildings and the strength of beams and joists and their supports; *and also providing for and regulating the size and number of fire escapes for buildings more than two storeys in height;*

Drainage 20. Controlling and constructing sewers, drains and ditches and regulating and preventing the obstruction of the same; Sidewalks building and repairing sidewalks, preventing the leading, riding or driving of cattle or horses thereon or the riding on bicycles or tricycles thereon and compelling persons to remove and clear away all snow, ice and dirt and other obstructions from the sidewalks adjoining the premises owned or occupied by them; and also to provide for the cleaning of sidewalks adjoining vacant property of nonresidents and the property of any other persons who for twenty-four hours neglect to clean the same and in case of nonpayment of the expenses thereof by the owner or occupant, charging the same against the property as a special assessment to be recovered in like manner with the other taxes;

**Laying down pipes**

21. Authorising any corporate gas or water or gas and water company to lay down pipes or conduits for the conveyance of gas or water or both under streets, squares and other public places subject to such regulations as the council may make;

**Water supply Fire protection**

22. Contracting *subject to ratification by the ratepayers as provided in Part V of this Ordinance in the case of bylaws for creating debts* with any water works or water company for a supply of water within the municipality for fire purposes and other public uses for hydrants or otherwise as may be deemed advisable and for the renting of any such hydrants for any number of years not in the first instance exceeding *twenty* and renewing any such contract from time to time for such period not exceeding ten years as such council may desire and every such council shall also have power to purchase hydrants necessary for any of the purposes or uses aforesaid and also to erect the same; and purchasing or renting for a term of years or otherwise fire apparatus of any kind and fire appliances and appurtenances belonging thereto respectively;

**Abatement of nuisances**

23. Compelling the removal of dirt, filth, dust or rubbish, off the highways, streets, lanes, alleys or byways by the party depositing the same or by the owner or occupant before whose property it is or in default removing the same at his expense: compelling the removal of anything deemed dangerous to the lives of the inhabitants; preventing and regulating the construction of privy vaults and water closets and providing for keeping the same in a proper state of cleanliness and repair; preventing or regulating the erection or continuance of slaughter houses, gas works, tanneries, distilleries or other manufactories or trades which may prove to be nuisances; and preventing and abating nuisances generally;

**Preventing incumbering of streets**

24. Preventing the incumbering of streets or other public places by vehicles, agricultural implements, lumber and other articles;

**Regulating driving on streets**

25. Regulating the rate or pace of riding or driving within the municipality or any part thereof;

**Storage of gunpowder etc.**

26. Regulating the keeping and transporting of gunpowder and other combustible or dangerous materials;

**Preventing defacement of buildings**

27. Preventing the defacing of private or other property by printed or other notices;

**Regulating driving on bridges**

28. Regulating the rate or pace of riding or driving on bridges;

**Licensing gaming tables**

29. Licensing, regulating and governing all persons who keep or have in their possession or on their premises any billiard, pool or bagatelle table in a place of public entertainment whether such table be used or not and for fixing the sum to be paid for a license for each such table and the time such license shall be in full force;

**Licensing shows, etc.**

30. Preventing or regulating and licensing exhibitors of wax works, menageries, circuses, shows, theatres, caravans and for requiring the payment of license fees for authorising the same not exceeding $500 per day and for imposing fines on persons for infringing such bylaws to the amount of $50 over and above the amount of the license fee, and such fine and costs and fee may be levied by sale of the goods of the showman or the goods belonging to or used in connection with the show or exhibition whether owned by the showman or not and in addition the offender may be imprisoned for six months;

**Licensing places of amusement**

31. Preventing or regulating and licensing exhibitions held or kept for hire or profit, halls, opera houses, bowling alleys and other places of amusement;

**Licensing hawkers**

32. Licensing, regulating and governing hawkers, pedlers or petty chapmen and other persons carrying on petty trades or who go from place to place or to other men's houses on foot or with any animal bearing or drawing any goods, wares or merchandise for sale or for fixing the sum to be paid for a license for exercising such calling within the municipality and the time it shall be in force;

**Licensing business, etc.**

33. Controlling, regulating and licensing livery, feed and sale stables, telegraph and telephone companies, telegraph and telephone offices, insurance companies, offices and agents, real estate dealers and agents, intelligence offices or employment offices or agents, butcher shops or stalls, skating, roller or curling rinks, and all other business industries or callings carried on or to be carried on within the municipality or commercial travellers or other persons selling goods, wares, merchandise or other effects of any kind whatsoever or offering the same for sale by sample cards, specimens or otherwise, for or on account of any merchant, manufacturer or other person selling directly to the consumer, not having his principal place of business in the municipality, and collecting license for the same;

**Licensing porters, etc.**

34. Licensing porters, water dealers, milk dealers or carriers or common carriers, draymen, hackmen, omnibus drivers and guides and regulating the same;

(*a*) And for fixing the sum to be paid for license for exercising any or all such callings within the municipality and the time the license shall be in force;

(*b*) The power hereinbefore contained to license and regulate porters, water dealers, carriers, draymen, hackmen, omnibuses and guides shall extend to and include all those who carry on business as such partly within and partly without the municipality or who carry or convey goods or persons from any place outside the municipality to any place within the same or from within such municipality to any place beyond the limits thereof;

Restraining dogs

35. Restraining and regulating the running at large of dogs and imposing a tax on the owners, possessors or harbourers of dogs and killing dogs running at large;

Regulating assize of bread

36. Regulating the assize of bread and preventing the use of deleterious materials in making bread and providing for the seizure and forfeiture of bread made contrary thereto;

Rebating taxation

37. Allowing a rebate on all taxes paid before a time to be named in the bylaw; such rebate shall not exceed ten per cent. and the time fixed by the bylaw shall not be less than thirty days from the passage of the bylaw;

Exempting from taxation

38. Exemption from taxation for the then current year;

39. Exemption from taxation for a longer period than one year subject to ratification as hereinafter provided;

Bonusing manufacturers

40. *Making loans or* granting bonuses to manufactories mills, railways or any works of a public nature subject to ratification by the ratepayers as hereinafter provided;

Operating industries

41. Building, owning or operating grist mills elevators and manufacturing establishments, subscribing for stock therein subject to ratification as hereinafter provided;

Fire department

42. Establishing a fire department, appointing the officers thereof, regulating and providing their remuneration and prescribing their duties;

Fire protection

43. Providing protection from fire by the purchase of engines and equipment;

Compelling assistance in putting out fire, razing buildings

44. Compelling the inhabitants to assist and aid in the extinguishment of fires; pulling down and razing buildings in the vicinity of fires for the purpose of preventing the spreading of the same;

Fire districts

45. Regulating fire districts;

Regulating erection of wooden buildings, etc.

46. Regulating the erection and repair of buildings and preventing the erection of wooden buildings or additions thereto and wooden fences in specified parts of the municipality and prohibiting the erection or placing of buildings other than with main walls of brick, iron, concrete or stone and roofing

Chimneys

Removal of improper buildings

of incombustible material within defined areas of the municipality and regulating the construction of chimneys as to dimensions and otherwise and enforcing the proper cleaning of the same and authorising the pulling down or removal at the expense of the owner thereof of any building or erection which may be constructed or placed in contravention of any bylaw;

Prevention of fires

47. Generally establishing such measures as the safety and welfare of the municipality may require for the prevention and extinguishment of fires;

Compromising arrears of taxes

48. Compromising upon such terms as may be agreed upon for the payment of arrears of taxes;

Destruction of noxious weeds

49. Compelling the destruction of noxious weeds and plants by the owner or occupant of the premises upon which the same may be grown or standing or in default destroying or removing the same and charging the expenses so incurred as taxes against such premises for the current year;

Purchase of nuisance ground

50. The purchase or otherwise acquiring and holding any lands situated outside the limits of the municipality which may be required for a nuisance ground for the purpose of disposing of the sewage and other refuse of such municipality;

Government of municipality

51. Generally to make and establish all such bylaws for the government and good order of the municipality and the suppression of vice and immorality, protection of property and the promotion of health not inconsistent with the law;

Investment of sinking fund

52. Investing any part of the moneys held by them to the credit of a sinking fund account (which cannot be immediately applied towards paying the debt by reason of no part thereof being yet payable) from time to time in Dominion Government securities, school or municipal debentures of any school or municipality in the North-West Territories provided that such debentures mature before the date on which the debt for which the said sinking fund exists is due and payable;

Use of firearms

53. *Prohibiting the discharge of firearms or other explosives in the municipality or in any part of the municipality comprised in any registered townsite.*

Preventing children being on streets at nightfall

54. On presentation of a duly certified petition representing one-half of the resident ratepayers of any municipality or portion of a municipality regulating the time after which children shall not be in the streets within the limits represented by the said petitioners at nightfall without proper guardianship and the age or apparent age of boys and girls respectively under which they shall be required to be in their homes at the hour appointed and such municipal council shall in each case cause a bell or bells to be rung at or near the time appointed as a warning to be called a "curfew bell" after which

the children so required to be in their homes or off the streets shall not be upon the public streets except under proper control or guardianship or for some unavoidable cause; and for providing a penalty for any child so found in the public streets contrary to the above regulations and the parent or guardian of any child who after being duly warned in writing permits his child to be on the public streets contrary to said regulations;

**Hospitals**

55. The erection, *maintenance* and regulation of hospitals or granting aid to same;

**Preventing pollution of water supply**

56. Preventing the putting of anything prejudicial to health in any stream or any body of water within the municipality or from which water is supplied for any purpose;

**Regulating burial of dead**

57. Preventing the burial of the dead within the municipality;

**Electric and other works**

58. Building, erecting or buying or leasing, controlling and operating telephone plant, electric light and power plant, gas and waterworks plant or purchasing stock in any incorporated company carrying on or formed for the purpose of carrying on any of the said businesses subject to the ratification of the ratepayers;

(*a*) For all purposes connected with the carrying on of any of the above works the municipality is hereby authorised to purchase any lands either within or without the municipality and to enter into any contract necessary for the proper carrying on of said businesses and generally to conduct said works and businesses arising in connection therewith either by the council or by commissioners or agents appointed for the purpose as fully and freely and with all the powers and rights they would have if specially incorporated for the purpose of carrying on said business;

(*b*) In case the municipality engage in any of the businesses heretofore referred to the council shall have power to appoint by bylaw commissioners for the purpose of carrying on such businesses or any of them and all necessary contracts in connection therewith may be done and performed in the name of the said commissioners who shall be called "electric light commissioners," "telephone commissioners" or as the case may be and by that name shall have all the powers for properly carrying on the business which are herein granted to the municipality;

Licensing pawnshops

59. Licensing and regulating pawnshops, junk stores or shops and second hand stores or shops and fixing the amount to be paid for license for the same and the time such license shall be in force;

Licensing scavengers, etc.

60. Regulating and licensing scavengers and billposters and preventing the pulling down or defacing of signboards or written or printed notices lawfully affixed;

Removal of obstructions

61. Directing the removal of doorsteps, porches, railings or other erections or obstructions projecting into or over any sidewalk, street or other public place at the expense of the proprietor of the property connected with which such projections are found and assessing said expense if not paid against said lot or property;

Regulating railways

62. Sanctioning and permitting the track of any railroad, street railway or tramway to be laid in, on or along any street or avenue of the municipality and to provide compensation for any damage that may be done to the property on said streets or avenues; the amount of said damage if any to be settled in the manner provided herein in regard to the expropriation of land; and to regulate the use of locomotive engines and of steam or other motor power on any or every portion of any railroad within the municipality and to provide and regulate the speed of cars upon any and every part of any railroad within the municipality and to impose a penalty not exceeding $500 for any breach of such bylaw;

Regulating railway train

63. Subject to the provisions of any Act of the Parliament of Canada respecting railways, regulating the rate of speed of railway trains and engines along or across any of the streets or avenues of the municipality and preventing the obstructing of any streets or avenues by leaving, keeping or allowing to stand thereon any engine, train, car or cars or truck for a longer period than five minutes at a time and preventing the loading or unloading of any car or truck along side or from any street crossing or sidewalk in the municipality and blowing of whistles or ringing of bells while the engine is going along or across any street or avenue except under conditions mentioned in such bylaw and imposing a penalty for breach of such bylaw not exceeding $500;

Procedure

(*a*) In any proceedings taken for infraction of bylaws passed under the two preceding subsections service of necessary documents upon any resident employee of the railroad shall be good service upon the owners of the railroad and both the owners of the railroad and the persons in charge of the engine, car, truck or train shall be liable for the penalty provided in the bylaw and proceedings may be taken against either or both;

**Regulating sale of food**

64. Regulating the sale of any articles used for food or drink and providing for inspection of same and for seizure and forfeiture of articles offered or exposed for sale contrary thereto;

**Contracts for light or water**

65. Authorising the mayor and secretary treasurer to sign any contract with any person or corporation to supply light or water for the use of the corporation for any period not exceeding five years;

**Removal dangerous buildings**

66. Appointing street and building inspectors and providing their duties and for providing for the summary removal of any pole or wire or other obstruction from the street or for the pulling down or removal or closing to the use of the public of any building or other erection within the municipality which shall be deemed dangerous by such inspectors;

**Drainage**

67. Constructing through, over and above lands lying beyond or outside of the limits of the municipality such drains and sewers as may be deemed expedient to secure the proper drainage of said municipality and the disposal of the sewage thereof;

**Naming streets**

68. Naming or numbering the streets or avenues and changing the name and numbers of any of them of streets and avenues now existing or hereafter laid out within the municipality;

**Fire walls**

69. Authorising the building of fire walls and granting bonuses for the same;

**Industrial farms, parks, exhibition grounds, etc,**

70. Acquiring any estate in landed property within or without the town *for obtaining gravel or* for an industrial farm or for a public park, garden or walk or for a place for exhibitions and for the disposal thereof when no longer required for the purpose or when the council of the town may deem it advisable to dispose of the same; and for accepting and taking charge of landed property within or without the town dedicated for a public park, garden or walk for the use of the inhabitants of the town;

**Erecting buildings, etc.**

71. The erection of buildings and fences for the purpose of the farm, garden, walk or place for exhibitions as the council deems necessary;

**Management of parks, etc.**

72. The management of the farm, park, garden, walk or place for exhibitions and buildings;

**Issuing debentures to aid railways**

73. Upon a petition of at least three-fourths in number of the resident ratepayers entitled to vote on bylaws requiring the assent of the electors and subject to ratification by a vote of the electors as in the case of such bylaw, to subscribe for any number of shares in the capital stock of any incorporated rail-

way or street railway in the construction or maintenance or operation of which in, through or near the municipality, the municipality is in the opinion of the municipal council interested; and for issuing for the purpose debentures payable at such times and for such sums respectively not less than $20 and bearing interest as the municipal council thinks meet, being not more than eight per cent.;

Closing of shops

74. The enforcement of closing at any specified hour of all wholesale and retail shops, stores or other places where any mercantile business is carried on, provided the council is requested to do so by a petition signed by three-quarters of the ratepayers of the municipality who are engaged in any such line of business;

Restraining running at large of animals

75. Restraining and regulating the running at large or trespassing of any animals and for providing for distraining and impounding them and for determining the compensation to be allowed for carrying out the provisions of such bylaw and for services rendered in respect to and sustenance supplied for animals distrained or impounded; for appointing pound keepers and providing sufficient yards, buildings and enclosures for the safe keeping of such animals as it may be the duty of the pound keeper to impound; for appraising the damages to be paid by the owners of animals impounded for trespassing and (subject to the provisions hereinafter referred to) for providing for the sale of animals impounded in case they are not claimed within a reasonable time or in case the damages, costs and expenses are not paid:

Provided that in addition to any provision that may be contained in any bylaw passed *by the council of any rural municipality* under this subsection the provisions of sections 26, 27, 28, 29 and 30 of *The Pound District Ordinance* or any provisions that may be substituted therefor or enacted in amendment thereof shall apply to and be observed in the case of any proceedings under such bylaw:

*Provided however that the sale of any impounded animal as provided for in section 28 of The Pound District Ordinance may be held at such place in the municipality as may be designated by bylaw;*

Disposition of not required property

76. *Disposing of or devoting to some other municipal purpose in whole or in part any property acquired by the municipality for a specific purpose when such property is in the opinion of the council no longer required or not required for the time being for the purpose for which it was originally acquired or to which it has been subsequently devoted;*

Restricting limits of livery stable

77. *For defining localities or districts within the municipality within the limits of which no livery, boarding or feed*

*stable shall thereafter be established.* C. O. 70, s. 95; 1900, c. 23, s. 2; 1901, c. 23, ss. 2 and 3; 1903, Sess. 1, c. 19, s. 2, and 1903, Sess. 2, c. 22, s. 1.

Collection of license fees

**96.** In all cases in which in this Ordinance it is provided that the council may license any business, building, calling, trade or occupation, or the keeper of any articles or animals for use or hire, the council shall also have full power and authority by bylaw to provide regulations in connection therewith and governing the conduct of same and providing the manner of collecting of such licenses and providing penalties for not having such license and for breach of conditions on which such licenses are issued and also for fixing fees to be charged for such licenses and regulating the prices or fees to be charged by the holders of such licenses and providing for the collection or payment of the same and generally for the protection of those persons holding licenses. C. O. 70, s. 96.

Liability for both license fees and taxes

**97.** The imposing or collecting of license fees shall not in any case be held to prevent the assessing of property used by license holders in the same manner as other property and collection of taxes thereon. C. O. 70, s. 97.

May enforce bylaws at cost of defaulter

**98.** When any municipal council has any authority to direct by bylaw or otherwise that any matter or thing shall be done by any person or corporation such council may also by the same or another bylaw direct that in default of its being done by the person or corporation such matter or thing shall be done at the expense of the person or corporation in default and the municipality may recover the expense thereof with costs by action in any court of competent jurisdiction. C. O. 70, s. 98.

Passing bylaws Procedure

**99.** Every bylaw under this Ordinance shall be under the seal of the municipality and shall be signed by the chairman or the person presiding at the meeting at which the bylaw is finally passed and by the secretary treasurer of the municipality; and every such bylaw shall have three distinct and separate readings before the same shall be finally passed but not more than two readings shall be had at any one meeting except by the unanimous vote of the council present. C. O. 70, s. 99.

Proof of bylaws

**100.** A copy of any bylaw written or printed without erasure or interlineation and under the seal of the municipality certified to be a true copy by the secretary treasurer thereof and by any member of the council shall be authentic and received as *prima facie* evidence of the due execution and contents thereof without further proof in any court of justice. C. O. 70, s. 100.

Time limit for application to quash

**101.** In case no application to quash a bylaw is made within two months next after the final passing thereof the bylaw shall notwithstanding any want of substance or form either in the bylaw itself or in the time or manner of passing the same be a valid bylaw. C. O. 70, s. 101.

### MAYOR OR REEVE.

Duties of mayor or reeve

**102.** The mayor or reeve shall preside at all meetings of the council, preserve order and enforce the rules of the council; sign jointly with the secretary treasurer all cheques ordered to be issued by the council; be vigilant and active at all times in causing the bylaws of the municipality to be put in force and duly executed; inspect and report to the council on the conduct of the officers of the municipality; cause as far as may be in his power all negligence, carelessness or violation of duty to be prosecuted and punished; communicate from time to time to the council any information and make such recommendation as will tend to the improvement of the finances, health, security and comfort of the municipality. C. O. 70, s. 102.

Special meetings of council

Ratepayers' meetings

**103.** The mayor or reeve shall call special meetings of the council whenever requested so to do by a majority of the same in writing and all the members thereof shall be duly notified of the time and place of holding the same at least two days previous to the holding thereof; and he shall by public notice, over his signature, conspicuously posted in at least ten places in the municipality call a public meeting of the ratepayers of the municipality for the discussion of municipal affairs and such meeting shall be held within the two weeks preceding the date fixed for holding the annual election of councillors. C. O. 70, s. 103.

Mayor or reeve may vote Equality of votes

**104.** The mayor or reeve at any meeting of the council may vote with the other members of the council on all questions; and any question on which there is an equality of votes shall be deemed to be negatived. C. O. 70, s. 104.

Absence of mayor Substitute

**105.** In the event of the absence of the mayor or reeve from any meeting the council shall elect another from amongst themselves who shall have all the powers of the mayor or reeve at such meeting. C. O. 70, s. 105.

### VACANCY IN COUNCIL. LEAVE OF ABSENCE.

**106.** In case of the resignation, death or removal of any member of a council or in the event of a vacancy occurring in the council from any cause whatsoever the council at its next meeting shall order an election and the member so elected shall hold office for the unexpired period of the member whose place he was elected to fill. C. O. 70, s. 106.

Vacancy New election

**107.** In the event of any member of a council refusing or neglecting to attend the meetings of the council for three months his seat shall be declared vacant unless he shall have received permission to absent himself from the council by a majority vote of the same at a regular meeting of the council, which permission shall in no case be for a longer period than six months. C. O. 70, s. 107.

Leave of absence

### THE SECRETARY TREASURER.

**108.** The council shall by bylaw * * * appoint a secretary treasurer who shall hold office during the pleasure of the council *and the secretary treasurer may also be appointed assessor.* C. O. 70, s. 108; 1900, c. 23, s. 3, and 1902, c. 9, s. 6.

Appointment of secretary treasurer

**109.** The secretary treasurer shall *within one month after* entering on his duties furnish to the municipality security in a penal sum to be named by the council for the true and faithful performance of all the duties required of him by this Ordinance and the said security shall be the guarantee bond of a guarantee company authorised to do business in Canada. C. O. 70, s. 109, and 1901, c. 23, s. 4.

Secretary treasurer to furnish bond

**110.** The secretary treasurer shall attend all meetings of the council, truly record all resolutions, decisions and other proceedings of the council and if required by the council shall record the name of every member voting and whether aye or nay on any question coming before the council; he shall keep the books, records and accounts of the council and shall preserve and file all accounts acted upon by the council and shall keep the original or certified copies of all bylaws of the council. C. O. 70, s. 110.

Duties as secretary

**111.** The secretary treasurer shall collect and receive all moneys belonging or accruing to the municipality from whatever source and shall deposit the same to the credit of the municipality in any chartered bank designated by resolution of the council. He shall conjointly with the mayor or reeve sign all

Duties as treasurer

cheques on such bank ordered to be issued by the said council:

Provided that in case there is no branch of any chartered bank situated within the municipality the council may direct that any funds to the credit of the general fund of the municipality may be deposited to the credit of the municipality in any private bank doing business therein. C. O. 70, s. 111.

### AUDITOR.

**Who may not be auditor**

**112.** No one shall be appointed as auditor who is or who during the preceding year was a member of the council or officer of the municipality or who had during such preceding year either directly or indirectly a share or interest in any contract with or on behalf of the municipality except as auditor. C. O. 70, s. 112.

**Duties of auditor**

**113.** The auditor shall examine and report upon all accounts affecting the municipality or relating to any matter under its control or within its jurisdiction for the year ending on the thirty-first day of December preceding his appointment and during the year for which he was appointed he shall at the request of the council report from time to time on matters that may be referred to him. C. O. 70, s. 113.

**Auditor shall prepare statement**

**114.** The auditor shall prepare an abstract of the receipts, expenditures, assets and liabilities of the municipality and also a detailed statement of the said particulars in form as the council may direct and shall make a special report of any expenditure made contrary to law and shall deliver one copy of such report to the mayor or reeve and one to the secretary treasurer of the municipality and thereafter any inhabitant or ratepayer of the municipality may inspect the said report and may by himself or agent at his own expense take a copy thereof or extract therefrom.

(2) *The auditor shall forthwith transmit a copy of such report to the Territorial treasurer.* C. O. 70, s. 114, and 1899, c. 15, s. 1.

**Statement to be published**

**115.** The council of every municipality shall not later than the fifteenth day of February in each year cause to be published within the municipality a detailed copy of the auditor's report required by section 113 hereof. C. O. 70, s. 115.

**Audit of accounts of secretary treasurer**

**116.** The council of every municipality shall provide for the audit of the accounts of the secretary treasurer at least once in every three months during the current year and the

Lieutenant Governor in Council may on petition of one-fourth of the number of the ratepayers of any municipality as shown by the last revised assessment roll appoint anyone to make a special audit of the accounts of any municipality; the expenses of such special audit shall be paid out of the general fund of the municipality. C. O. 70, s. 116.

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# Part III.

## Assessment and Collection of Taxes.

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### PROPERTY LIABLE TO TAXATION.

Rates to be equitable

**117.** All municipal, local or direct taxes or rates shall where no other express provision has been made in this respect be levied equally upon the whole ratable property, real and personal, and income, of the municipality according to the assessed value of such property and income and not on any one or more kinds of property in particular or in different proportions. C. O. 70, s. 117.

All land taxable

**118.** All land and personal property and income in the Territories shall where no other express provision has been made in this respect be liable to taxation subject to the exemptions hereinafter mentioned.

Income assessment

(2) *No person deriving an income from any source whatsoever not declared exempt by this Ordinance shall be assessed for a less sum as the amount of his net personal property than the amount of such income during the year then last past in excess of the amount of any exemption under this Ordinance and such last year's income in excess of such exemption, if any, shall be held to be his net personal property unless he has other personal property liable to assessment in which case such excess and other personal property shall be added together and constitute his personal property liable to assessment.* C. O. 70, s. 118, and 1903, Sess. 1, c. 19, s. 3.

Railway property

**119.** The real estate and personal property of all railway companies liable to assessment is to be considered as the property of ratepayers within the municipality. C. O. 70, s. 119.

Crown lands assessment

**120.** Crown lands occupied whether under right of purchase or homestead or preemption entry and unpatented lands vested in or held by her Majesty which may be hereafter or may have been heretofore sold or agreed to be sold to any person or corporation or which may be located as a free grant homestead or preemption shall be liable to taxation from the date of such homestead or preemption entry, location, sale or grant; and all such lands shall be liable to taxation thenceforward under this Ordinance in the same way as other land whether any license of occupation, certificate of sale or receipt for money paid on such sale has or has not been or is or is not issued and in case of sale or agreement of sale by the Crown whether any payment has or has not been or is or is not made thereon and whether any part of the purchase money is or is not overdue; but such taxation shall not in any way affect the right of her Majesty in such lands. C. O. 70, s. 120.

## EXEMPTIONS.

**Exemptions**

**121.** The following shall be exempted from taxation:

1. *All property held by his Majesty or for the public use of the Territories;*

2. All property held by or in trust for the use of any tribe of Indians or the property of the Indian department;

3. *Where any person is occupant of or interested in any property mentioned in either of the two preceding clauses otherwise than in an official capacity such occupant or person interested shall be assessed in respect thereof but the property itself shall not be liable beyond the interest of the person assessed;*

4. The lands, not exceeding one-half acre and the buildings thereon of all public schools, universities, collegiate institutes or incorporated seminaries being public property, so long as such property is actually used or held for educational purposes;

5. All property belonging to the municipality when held or occupied or in the use of the corporation and the personal property belonging to the same;

6. Gaols, court houses and the necessary land attached thereto;

7. The books of every public library;

8. The income of a farmer derived from his farm and the income of merchants, mechanics and other persons derived from capital liable to taxation;

9. Household effects of every kind (except in unlicensed hotels and restaurants), books and wearing apparel in use;

10. The increase in the value of any land by reason of the annual cultivation thereof, together with the growing crops;

11. All works constructed, operated and used in connection with irrigation ditches as well as the ditches themselves operated under and subject to the provisions of *The North-West Irrigation Act 1898*:

Provided however that should any such works be not operated during any one year then said works and ditches shall not be exempt from taxation during the year;

12. * * * * * * * * * * * * *

13. The annual income of any person derived from his personal earnings provided the same does not exceed *$1,000*;

14. Rental or other income derived from real estate except interest on mortgages;

15. A building used for church purposes and not used for any other purpose for hire or reward and the lot or lots whereon it stands not exceeding one-half acre except such part as may have any other buildings thereon;

16. Grain;

17. *Buildings used by any institution mentioned in the schedule to The Hospitals Ordinance or added thereto under section 9 thereof for hospital purposes and not for any other purpose for hire or reward and the lot or lots whereon they stand not exceeding two acres, except such part as may have any other buildings thereon.* C. O. 70, s. 121; 1899, c. 15, s. 1; 1900, c. 23. s. 4; 1903, Sess. 1, c. 18. s. 1.

Duties of assessors

**122.** The assessor or assessors shall prepare an assessment roll after revision by the assessment committee as in form F in the schedule to this Ordinance setting down in each column as accurately as may be after diligent inquiry the information called for by the heading thereof. C. O. 70, s. 122.

### ASSESSMENT.

Assessment committee

**123.** The council of every municipality shall appoint the mayor or reeve, secretary treasurer and assessor or any two others with the assessor who shall on completion of the assessor's roll and before assessment notices are sent out check over the assessment roll and make such corrections as the majority of the committee may decide. C. O. 70, s. 123.

Assessor to notify parties assessed

**124.** Every assessor shall before delivery of his roll to the secretary treasurer of the municipality deliver to each taxable person if residing in the municipality a notice setting forth the sum at which his real and personal property and taxable income is assessed or if such taxable person is not residing in the municipality shall mail said notice by registered letter direct to such taxable person to the post office named in such roll and shall enter on the roll opposite the name of such person the date of such delivery or mailing and such entry shall be deemed *prima facie* evidence of such delivery:

Provided that in rural municipalities the assessor shall deliver such notice at the time of the assessment and if any corrections or alterations are made by the assessment committee the assessor shall deliver or send by registered letter a new assessment notice showing the corrections or alterations so made. C. O. 70. s, 124.

Partnership assessment

**125.** The personal property of a partnership shall be assessed against the firm at the usual place of business of the partnership and a partner in his individual capacity shall not be assessable for his share of any personal property of the partnership which has already been assessed against the firm.

(2) If a partnership has more than one place of business each branch shall be assessed as far as may be in the locality where it is situate for that portion of the personal property of the partnership which belongs to that particular branch. C. O. 70, s. 125.

Information to be given assessor

**126.** It shall be the duty of every person assessable for real and personal property or income in every municipality to give all information to the assessor and he may deliver to the assessor a statement in writing setting forth the particulars of the property for which he should be assessed but no such statement shall bind the assessor or excuse him from making due inquiry as to its correctness. C. O. 70, s. 126.

Vacant ground, farms, gardens, etc.

**127.** In assessing vacant ground or ground used as a farm, garden or nursery and not in immediate demand for building purposes in towns the value of each parcel of vacant ground shall be that at which sales of it can be reasonably expected during the current year; the assessor shall value it as if held for farming or gardening purposes with such percentage added as the situation of the land may reasonably call for and such vacant land whether surveyed into lots or not if unsold as such may be entered on the assessment roll as so much of the original lot or section as the case may be and where ground is not held for purposes of sale but *bona fide* inclosed and used in connection with a residence or building as a paddock, garden, park or lawn it shall be assessed at a sum which at six per centum would yield a sum equal to the annual rental which in the judgment of the assessor it is reasonably worth reference being always had to its position and local advantages.

Land values

(2) Except in the case of mineral lands hereafter provided for land shall be estimated at its relative value as compared with the balance of the land in the municipality:

Provided that no lands shall in a rural municipality be assessed at a less valuation than $2 per acre.

Mineral lands

(3) In estimating the value of mineral lands said lands and the buildings thereon shall be valued and estimated at the value of other lands in the neighbourhood for agricultural purposes.

Stock in trade

(4) In assessing stock in trade the assessor shall assess a person, firm or corporation for the amount of the average stock in trade kept on hand by such person, firm or corporation during the twelve months immediately prior to the date of assessment. C. O. 70. s. 127.

Date of completion of assessment

**128.** Each assessor shall make and complete and deliver his roll to the secretary treasurer of the municipality in each year on or before the first day of May or such prior day as the council may prescribe by bylaw with his affidavit thereto or indorsed thereon made before a justice of the peace in the following form:

I, , do swear that I have in the within (*or* annexed) assesment roll * * * assessed the municipality of (*or* part *as the case may be naming the part*) according to law to the best of my skill and ability, and without favour.

Sworn before me at
this day of A.D.
1
J.P.

*Assessor.*

C. O. 70, s. 128, and 1901, c. 23, s. 5.

Rural municipalities Triennial assessments

**129.** The council of any rural municipality may by resolution decide that an assessment may be used to strike rates therefrom for three years consecutively and no longer:

Proviso for appeals

Provided that in each year when a new assessment roll shall not be ordered the council shall by notice published in at least one issue each week for three consecutive weeks of any newspaper published within the municipality or if there be none published therein any newspaper published nearest to the municipality fix a date when the council shall sit as a court of revision to hear appeals, to add to, strike off or alter the assessment roll of the last preceding year and such appeals shall be lodged with the secretary treasurer of the said municipality within twenty-five days from the date of the said notice and the proceedings for the trial of such appeals shall be those hereinafter provided in section 135 of this Ordinance. C. O. 70, s. 129.

### COURT OF REVISION.

**Court of revision Quorum**

**130.** The mayor or reeve and council shall be the court of revision of all municipalities and a majority thereof shall be a quorum for the transaction of business. C. O. 70, s. 130.

**Clerk of**

**131.** The secretary treasurer of the municipality shall be the clerk of the court of revision and shall record all the proceedings thereof. C. O. 70, s. 131.

**May adjourn**

**Completion of duties**

**132.** The court may meet and adjourn from time to time and may be summoned to meet at any time by the mayor or reeve of the municipality and all the duties of the court of revision shall be completed before the first day of July in each year. C. O. 70, s. 132.

**Evidence on oath**

**133.** All evidence before the court of revision shall be taken on oath and any member shall be competent to administer the oath to any person giving evidence before the court and the clerk of the court may when required issue a summons to any witness to attend such court and if any person so summoned as a witness fails without good and sufficient reason to attend (having been tendered compensation for his time at the rate of $1 per day and mileage at the rate of ten cents per mile where a railway is not available, or actual railway fare) he shall on summary conviction thereof incur a penalty not exceeding $50. C. O. 70, s. 133.

**Nature of complaints to be tried**

**134.** The court shall try all complaints in regard to persons wrongfully placed upon the roll or omitted therefrom or assessed too high or too low or in regard to any property of any person which has been misdescribed or omitted from the roll or in regard to any assessment which has not been performed in accordance with the provisions and requirements of this Ordinance as the case may be. C. O. 70, s. 134.

**Proceedings**

**135.** The proceedings for the trial of complaints shall be as follows:

**Notice of appeal**

1. Any person assessed within the municipality who considers himself aggrieved for any or all of the causes hereinafter referred to may within twenty-one days after the time fixed for the return of the roll give notice in writing to the secretary treasurer of the municipality that he considers himself so aggrieved naming the complaints and the grounds of appeal and upon what property;

**Appeal as to third party**

2. If any ratepayer within the municipality thinks that any person has been assessed too high or two low or has been wrongfully inserted in or omitted from the assessment roll or that the property of any person has been misdescribed or omitted from the roll or that the assessment has not been performed in accordance with the provisions and requirements of this Ordinance the secretary treasurer shall on his request in writing give notice to such person and the assessor of the time when the matter will be tried by the court and the matter shall be decided in the same manner as complaints by a person assessed;

**List of appeals and date of hearing to be published**

3. The clerk of the court shall post up in some convenient place within the municipality a list of all complaints by persons on their own behalf against the assessor's return and of all complaints on account of assessment or want of assessment of other persons stating the names both of the complainant and of the party complained against with a concise description of the matter complained of together with an announcement of the time when the court will be held to hear the complaints; and no alteration shall be made in the roll unless under a complaint formally made according to the above provisions;

**No alteration unless on complaint**

**Omissions discovered subsequently**

4. If at any time before the first day of December it shall be discovered that the property or income of any taxable person or part thereof has been omitted from the roll the secretary treasurer shall notify such taxable person if he resides or has a place of business within the municipality that at a meeting of the council to be held at least six days after such notice an application will be made to the said council to assess such taxable property for such sum as may be deemed right and that such taxable person is required to attend such meeting to show cause why the said taxable property should not be assessed and as to the amount the same should be assessed for;

**Service of notice**

5. If such taxable person does not reside or have a place of business in the municipality then such notice shall be posted by registered letter to the post office address of such person fifteen days before such meeting of the council;

**Assessment of omitted person**

6. After such notices have been served or posted as aforesaid and after the expiration of the time mentioned therein or if such taxable person be not known then without any notice the council may assess such taxable property and direct the secretary treasurer to enter the same upon the proper tax roll as they shall direct and the name of such taxable person if known:

Provided always that the provisions of sections 136, 137 and 138 hereof as to appeal shall apply to any such assessment;

Entry on tax roll

7. Immediately after such assessment shall be made as aforesaid the secretary treasurer shall place the same on the tax roll at the end thereof and shall rate the same of the same ratio as the rest of the said roll and thereafter the same shall be collectable in the same manner as the rest of the taxes;

List of complaints for assessor

8. The secretary treasurer shall cause to be left at the residence of each assessor or addressed to each said assessor by registered letter to his post office address a list of all complaints respecting his roll;

Notice to parties in appeal

9. The secretary treasurer shall also prepare a notice in the form following for each person with respect to whom a complaint has been made:

Take notice that you are required to attend the court of revision for the municipality of at on the day of in the matter of the following appeal: appellant. That you are assessed too high (*or* too low *or* not a *bona fide* resident *or as the case may be.*)

(*Signature*) *Secretary treasurer.*

and every such notice shall be posted by a registered letter to the post office address of such person as entered on the assessment roll fifteen days before the sitting of the court unless such person has a place of business within the municipality in which case the secretary treasurer shall cause the said notice to be served at such place of business at least six days before the sitting of the said court;

Appearance in person or by agent

10. Persons complained against may appear before the court in person or by agent;

Hearing and determination

11. The court after hearing the complainant and the party complained against and any evidence adduced, as well as the assessor, shall determine the matter and confirm or amend the roll accordingly;

*Ex parte* proceeding

12. If either party fails to appear either in person or by agent the council may proceed *ex parte*. C. O. 70, s. 135.

Revised roll final subject to appeal

**136.** The roll as finally passed by the court and certified by the secretary treasurer as passed shall except in so far as the same may be further amended on appeal to a judge be valid and bind all parties concerned notwithstanding any defect or error committed in or with regard to such roll or any defect or error or misstatement in the notice required by subsections 4 and 5 of the foregoing section of this Ordinance or the omission to deliver or transmit such notice. C. O. 70, s. 136.

## APPEAL FROM THE COURT OF REVISION.

Appeals to judge

**137.** An appeal to a judge shall lie not only against the decision of the court of revision on an appeal but also against the omission, neglect or refusal of the said court to hear or decide an appeal. C. O. [illegible]

Appeal proceedings

**138.** In all cases of appeals under the provisions of the preceding section the proceedings shall be as follows:

Notice of appeal.

1. The person appealing shall in person or by agent serve upon the secretary treasurer of the municipality within eight days after the decision of the court of revision a written notice of his intention to appeal to a judge;

Secretary treasurer to notify judge

2. The secretary treasurer shall immediately after the time limited for filing notices of appeals forward a list of the same to the judge usually exercising jurisdiction in the judicial district of which such municipality forms a part or if such municipality forms part of more than one judicial district then to the judge whose official residence is nearest the municipality and such judge shall fix a day for the hearing of such appeals;

Notice to parties

3. The secretary treasurer shall thereupon give notice to all the parties appealed against in the same manner as is provided for giving notice on a complaint to the court of revision but in the event of failure by the secretary treasurer to have the required service in any appeal made or to have the same made in proper time the judge may direct service to be made for some subsequent day upon which he may sit;

Notice of appeals to be posted

4. The secretary treasurer of the municipality shall cause a conspicuous notice to be posted up in his office or the place where the council of the municipality holds its sittings containing the names of all the appellants and parties appealed against with a brief statement of the ground or cause of appeal together with the time and place at which a court will be held to hear appeals;

Clerk of court

5. The secretary treasurer of the municipality shall be the clerk of such court;

Hearing and determination

6. At the court so holden the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that all appeals may be determined before the first day of September;

Production and amendment of roll

7. At the court to be holden by the judge to hear the appeals hereinbefore provided for the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll and all papers and writings in his custody

connected with the matter of appeal and such roll shall be altered and amended according to the decision of the judge, if then given, who shall write his initials opposite any part of the said roll in which any mistake, error or omission is corrected or supplied and if the decision is not then given the secretary treasurer of the municipality shall when the same is given forthwith alter and amend the roll according to the same and shall write his name opposite every such alteration or correction;

Judge's powers

8. In all such proceedings the judge shall possess all such powers for compelling the attendance of and for the examining on oath of all parties whether claiming or objecting or objected to and all other persons whatsoever and for the production of books, papers, rolls and documents and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the supreme court;

Title of proceedings

9. All process or other proceedings in, about or by way of appeal may be entitled as follows:

In the matter of appeal from the court of revision of the
municipality of
*A.B.,*
Appellant,
and
*C.D.,*
Respondent;

Cost of proceedings

10. The costs of any proceeding before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the judge thinks proper; and where costs are ordered to be paid by any party the same shall be enforced by execution to be issued as the judge may direct from the supreme court or in the same manner as upon an ordinary judgment for costs recovered in such court;

Taxation

11. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, the same to be taxed according to the allowance in the court for such costs; and in case where execution issues the costs thereof as in the like court and of enforcing the same may also be collected thereunder;

Decision final

12. The decision and judgment of the judge shall be final and conclusive in every case adjudicated upon and can only be appealed from by a unanimous vote of the council. C. O. 70, s. 138.

### SINGLE TAX.

Single tax

**139.** The council of a municipality may by bylaw authorise the levying and collecting of a rate or rates of so much on the dollar based upon the actual value of all lands (without improvements) in the municipality as the council deems sufficient for the current year to raise the sum required in their estimates but in no case shall the rate imposed exceed four cents on the dollar of the assessment in any one year including general, school, special and debenture rates. C. O. 70, s. 139.

**140.** The adoption of the preceding section by any municipality shall be optional, which must be decided by a two-thirds majority of the members of the council; or upon receipt of a petition signed by one-half of the resident ratepayers of the municipality the council shall adopt and carry into effect the provisions of the preceding section. C. O. 70, s. 140. **Optional**

**141.** This system of assesment shall become permanent after a petition signed by one-half of the resident ratepayers has been presented for two years in succession. On a petition signed by one-half of the resident ratepayers the trustees shall direct the assessor to revert to the former system of taxation. C. O. 70, s. 141. **Permanent on petition**

### ESTIMATES.

**142.** The council of every municipality shall every year on or before the fifteenth day of July make estimates of all sums which may be required for the lawful purposes of the municipality for the year or that part thereof for which sums are required to be levied making due allowance for the cost of collection and abatement and losses which may occur in the collection of the taxes on the lands of nonresidents. C. O. 70, s. 142. **Estimates**

### RATES.

**143.** The council of the municipality shall pass a bylaw authorising the levying and collecting of a rate or rates of so much in the dollar of the assessed value of the property therein as the council deems sufficient to raise the sum required in such estimates including improvement tax, general fund, local fund and school rates together with interest on the debt and sinking fund and shall not exceed two and a half cents on the dollar except as provided for in section 139 hereof. C. O. 70, s. 143. **Rates**

**144.** The secretary treasurer shall on or before the first day of September in each year prepare a tax roll containing columns for all information required by this Ordinance to be entered therein in which he shall set down in full the name of every person assessed, his post office address and the assessed **Tax roll**

value of his real and personal property and taxable income as ascertained from the assessment roll as finally revised; he shall calculate and set down opposite each such entry in columns headed "General fund," "Debenture fund," "School fund," "Statute labour fund" as the case may be, the sum for which such person or property is chargeable on account of each rate and under the column headed "Arrears of taxes" the sum which may appear on the books of the municipality as arrears on such parcel of land at that date; and in the column headed "Total" the total amount of taxes for which each parcel of land is liable. C. O. 70, s. 144.

Taxes due 1st January

**145.** All taxes shall be considered to be due on the first day of January of the year in which the same are levied. C. O. 70, s. 145.

Tax notice

**146.** The secretary treasurer shall on or before the first day of October in each year, transmit by mail a notice containing a statement and demand of taxes to each person whose name appears on said roll or to the agent of such person whose address has been transmitted to him and such statement and demand shall state the time such taxes are required to be paid and dates on which any reductions and penalties authorised by the council shall be allowed or charged as the case may be; and the secretary treasurer shall enter the date of mailing such notice in said tax roll opposite the name of the person taxed and such entry shall be *prima facie* evidence of the mailing of such notice and demand. C. O. 70, s. 146.

Seizure may be made

**147.** In case any person neglects to pay his taxes for thirty days after such demand as aforesaid the secretary-treasurer may by himself or his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same or of any goods or chattels in his possession wherever the same may be found within the municipality or of any goods or chattels found on the premises the property of or in the possession of any other occupant of the premises and may impound the same on the premises where distrained and no claim of property, lien or privilege shall be available to prevent the sale or the payment of the taxes and costs out of the proceeds of sale thereof; but any such distraint shall be made on or before the 30th day of December in each year. C. O. 70, 147.

Demand of income tax from employer

**148.** In case any person neglects or refuses to pay any income tax when demanded by the secretary treasurer the secretary treasurer shall then demand from the employer or employers of the person so neglecting or refusing the amount due for such income tax and the person paying the same shall deduct the amount so paid from the salary or wages due the person so neglecting or refusing and the said employer or employers are hereby rendered liable for the amount or amounts demanded by the secretary treasurer if they fail to deduct the same from the salary or wages due to the person employed. C. O. 70, s. 148.

Notice of sale

**149.** The secretary treasurer shall by advertisement over his hand posted up at three public places within the municipality within which the sale of goods and chattels distrained is to be made give at least six days public notice of the time and place of such sale and of the land on which the same was distrained; and at the time named in the notice the secretary treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes including costs and charges allowed by this Ordinance. C. O. 70, s. 149.

Disposal of surplus

**150.** If the property distrained has been sold for more than the amount of taxes and costs and if no claim for the surplus has been made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or right to the surplus such surplus shall be returned to the person in whose possession the said property was when the distress was made or if such claim be made by the person for whose taxes the property was distrained and the claim is admitted the surplus shall be paid to the claimant. C. O. 70, s. 150.

In case of dispute surplus held pending

**151.** If the claim is contested such surplus money shall be paid into the general fund of the municipality and shall be retained until the respective rights of the parties have been determined by action at law or by arbitration as provided in this Ordinance. C. O. 70, s. 151.

Taxes Recovery as a debt

Evidence

**152.** Taxes may be recovered with interest and costs as a debt due to the municipality in which case the production of a copy of so much of the tax roll as relates to the taxes payable by such person purporting to be certified as a true copy by the secretary treasurer of the municipality shall be *prima facie* evidence of the debt. C. O. 70, s. 152.

Costs allowed

**153.** The costs chargeable for distress and sale shall be as follows:

| | |
|---|---|
| Mileage going to and returning from place of seizure each mile necessarily travelled | $0 10 |
| Seizure | 1 00 |
| Taking care of property, the sum actually disbursed not exceeding $1.50 per day | |
| Notices of sale and posting up | 1 00 |
| For selling, 5 per cent. of the amount realised not exceeding the amount of the taxes. C. O. 70, s. 153. | |

**Statement of taxes collected and in arrear**

**154.** On or before the tenth day of January in each year the secretary treasurer shall make a return showing the total amount of taxes collected on the tax roll of the preceding year specifying the separate amounts that should be credited to the different funds for which a rate had been ordered to be struck by the council also an abstract of the tax roll showing the names and addresses of all persons whose taxes have not been paid and the total amount due for each parcel of land assessed to each such delinquent and he shall submit such return to the council at its first meeting thereafter and shall verify such return by the following declaration:

**Declaration of secretary treasurer**

I,                    , secretary treasurer of the municipality of                    do solemnly declare as follows:

1st. That the return herewith submitted contains a true statement of the taxes collected by me on the tax roll of the year;

2nd. That I have deposited the sums so collected in the                    bank as directed by resolution of the council;

3rd. That I have made diligent inquiry and have been unable to discover within the limits of the municipality sufficient goods or chattels belonging to or in the possession of the persons charged with or liable to pay any sums that appear in the list of unpaid taxes herewith submitted whereon I could levy any part of the taxes due.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at                    the                    day of                    1    . C. O. 70, s. 154.

**Suitable books to be provided**

**155.** The council of every municipality shall provide a book suitably ruled to be called the tax register in which shall be kept a list of all lands in arrears for taxes and the amount of such arrears and an official receipt book from which the secretary treasurer shall issue a receipt for every sum of money received by him on account of arrears of taxes and the secretary treasurer shall note on the stub of each receipt the name of the person making payment, the amount paid and date of payment. C. O. 70, s. 155.

**156.** As soon as possible after the first day of January in each year the secretary treasurer shall add any unpaid taxes (not including any arrears that may have been included in the total) that may appear on the tax roll of the preceding year against any piece of land to the arrears of taxes already charged in the tax register and also six per centum on the whole amount then due: **Arrears of taxes**

Provided that in case any land shall have been advertised for sale but for any reason has not been sold the proportionate cost of advertising authorised by section 183 of this Ordinance shall be included as part of the arrears chargeable to such land. C. O. 70, s. 156. **Proviso**

**157.** The secretary treasurer shall not be required to keep a separate account of the several distinct rates which may be charged on lands but all arrears from whatever arising shall be taken together and form one charge on the land. C. O. 70, s. 157. **Arrears to be included as one sum**

**158.** The secretary treasurer of any municipality shall not receive any part of the arrears charged against any parcel of land less than the taxes for one year thereon with accrued interest but if satisfactory proof is adduced to the secretary treasurer that any parcel of land on which taxes are due has been subdivided he may receive the proportionate amount of tax chargeable upon any of the subdivisions and leave the other subdivision or subdivisions chargeable with the remainder; and the secretary treasurer may in his books divide any piece or parcel of land which has been returned to him in arrears of taxes into as many parts as the necessities of the case may require. C. O. 70, s. 158. **Payment of proportionate amount of tax**

**159.** In case the secretary treasurer fails or omits to collect the taxes or any portion thereof by the day appointed the council of the municipality may by resolution authorise some other person in his stead to continue the levy and collection of the unpaid taxes in the manner and with the powers provided by law for the general levy and collection of taxes. C. O. 70, s. 159. **Substitute may be appointed for secretary treasurer**

**160.** The secretary treasurer shall in addition to the salary allowed him by the council be entitled to receive a commission **Secretary treasurer's commission**

notice and the proceedings for the trial of such appeals shall be those hereinafter provided in section 135 of this Ordinance. C. O. 70, s. 129.

### COURT OF REVISION.

Court of revision Quorum

**130.** The mayor or reeve and council shall be the court of revision of all municipalities and a majority thereof shall be a quorum for the transaction of business. C. O. 70, s. 130.

Clerk of

**131.** The secretary treasurer of the municipality shall be the clerk of the court of revision and shall record all the proceedings thereof. C. O. 70, s. 131.

May adjourn

Completion of duties

**132.** The court may meet and adjourn from time to time and may be summoned to meet at any time by the mayor or reeve of the municipality and all the duties of the court of revision shall be completed before the first day of July in each year. C. O. 70, s. 132.

Evidence on oath

**133.** All evidence before the court of revision shall be taken on oath and any member shall be competent to administer the oath to any person giving evidence before the court and the clerk of the court may when required issue a summons to any witness to attend such court and if any person so summoned as a witness fails without good and sufficient reason to attend (having been tendered compensation for his time at the rate of $1 per day and mileage at the rate of ten cents per mile where a railway is not available, or actual railway fare) he shall on summary conviction thereof incur a penalty not exceeding $50. C. O. 70, s. 133.

Nature of complaints to be tried

**134.** The court shall try all complaints in regard to persons wrongfully placed upon the roll or omitted therefrom or assessed too high or too low or in regard to any property of any person which has been misdescribed or omitted from the roll or in regard to any assessment which has not been performed in accordance with the provisions and requirements of this Ordinance as the case may be. C. O. 70, s. 134.

Proceedings

**135.** The proceedings for the trial of complaints shall be as follows:

Notice of appeal

1. Any person assessed within the municipality who considers himself aggrieved for any or all of the causes hereinafter referred to may within twenty-one days after the time fixed for the return of the roll give notice in writing to the secretary treasurer of the municipality that he considers himself so aggrieved naming the complaints and the grounds of appeal and upon what property;

Appeal as to third party

2. If any ratepayer within the municipality thinks that any person has been assessed too high or two low or has been wrongfully inserted in or omitted from the assessment roll or that the property of any person has been misdescribed or omitted from the roll or that the assessment has not been performed in accordance with the provisions and requirements of this Ordinance the secretary treasurer shall on his request in writing give notice to such person and the assessor of the time when the matter will be tried by the court and the matter shall be decided in the same manner as complaints by a person assessed;

List of appeals and date of hearing to be published

No alteration unless on complaint

3. The clerk of the court shall post up in some convenient place within the municipality a list of all complaints by persons on their own behalf against the assessor's return and of all complaints on account of assessment or want of assessment of other persons stating the names both of the complainant and of the party complained against with a concise description of the matter complained of together with an announcement of the time when the court will be held to hear the complaints; and no alteration shall be made in the roll unless under a complaint formally made according to the above provisions;

Omissions discovered subsequently

4. If at any time before the first day of December it shall be discovered that the property or income of any taxable person or part thereof has been omitted from the roll the secretary treasurer shall notify such taxable person if he resides or has a place of business within the municipality that at a meeting of the council to be held at least six days after such notice an application will be made to the said council to assess such taxable property for such sum as may be deemed right and that such taxable person is required to attend such meeting to show cause why the said taxable property should not be assessed and as to the amount the same should be assessed for;

Service of notice

5. If such taxable person does not reside or have a place of business in the municipality then such notice shall be posted by registered letter to the post office address of such person fifteen days before such meeting of the council;

Assessment of omitted person

6. After such notices have been served or posted as aforesaid and after the expiration of the time mentioned therein or if such taxable person be not known then without any notice the council may assess such taxable property and direct the secretary treasurer to enter the same upon the proper tax roll as they shall direct and the name of such taxable person if known:

Provided always that the provisions of sections 136, 137 and 138 hereof as to appeal shall apply to any such assessment;

**Entry on tax roll** 7. Immediately after such assessment shall be made as aforesaid the secretary treasurer shall place the same on the tax roll at the end thereof and shall rate the same of the same ratio as the rest of the said roll and thereafter the same shall be collectable in the same manner as the rest of the taxes;

**List of complaints for assessor** 8. The secretary treasurer shall cause to be left at the residence of each assessor or addressed to each said assessor by registered letter to his post office address a list of all complaints respecting his roll;

**Notice to parties in appeal** 9. The secretary treasurer shall also prepare a notice in the form following for each person with respect to whom a complaint has been made:

Take notice that you are required to attend the court of revision for the municipality of at on the day of in the matter of the following appeal: appellant. That you are assessed too high (*or* too low *or* not a *bona fide* resident *or as the case may be.*)

(*Signature*) *Secretary treasurer.*

and every such notice shall be posted by a registered letter to the post office address of such person as entered on the assessment roll fifteen days before the sitting of the court unless such person has a place of business within the municipality in which case the secretary treasurer shall cause the said notice to be served at such place of business at least six days before the sitting of the said court;

**Appearance in person or by agent** 10. Persons complained against may appear before the court in person or by agent;

**Hearing and determination** 11. The court after hearing the complainant and the party complained against and any evidence adduced, as well as the assessor, shall determine the matter and confirm or amend the roll accordingly;

***Ex parte* proceeding** 12. If either party fails to appear either in person or by agent the council may proceed *ex parte*. C. O. 70, s. 135.

**Revised roll final subject to appeal** **136.** The roll as finally passed by the court and certified by the secretary treasurer as passed shall except in so far as the same may be further amended on appeal to a judge be valid and bind all parties concerned notwithstanding any defect or error committed in or with regard to such roll or any defect or error or misstatement in the notice required by subsections 4 and 5 of the foregoing section of this Ordinance or the omission to deliver or transmit such notice. C. O. 70, s. 136.

### APPEAL FROM THE COURT OF REVISION.

**137.** An appeal to a judge shall lie not only against the decision of the court of revision on an appeal but also against the omission, neglect or refusal of the said court to hear or decide an appeal. C. O. 70, s. 137. Appeals to judge

**138.** In all cases of appeals under the provisions of the preceding section the proceedings shall be as follows: Appeal proceedings

1. The person appealing shall in person or by agent serve upon the secretary treasurer of the municipality within eight days after the decision of the court of revision a written notice of his intention to appeal to a judge; Notice of appeal

2. The secretary treasurer shall immediately after the time limited for filing notice of appeals forward a list of the same to the judge usually exercising jurisdiction in the judicial district of which such municipality forms a part or if such municipality forms part of more than one judicial district then to the judge whose official residence is nearest the municipality and such judge shall fix a day for the hearing of such appeal; Secretary treasurer to notify judge

3. The secretary treasurer shall thereupon give notice to all the parties appealed against in the same manner as is provided for giving notice on a complaint to the court of revision but in the event of failure by the secretary treasurer to have the required service in any appeal made or to have the same made in proper time the judge may direct service to be made for some subsequent day upon which he may sit; Notice to parties

4. The secretary treasurer of the municipality shall cause a conspicuous notice to be posted up in his office or the place where the council of the municipality holds its sittings containing the names of all the appellants and parties appealed against with a brief statement of the ground or cause of appeal together with the time and place at which a court will be held to hear appeals; Notice of appeal to be posted

5. The secretary treasurer of the municipality shall be the clerk of such court; Clerk of cour

6. At the court so holden the judge shall hear the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that all appeals may be determined before the first day of September; Hearing and determination

7. At the court to be holden by the judge to hear the appeals hereinbefore provided for the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll and all papers and writings in his custody Production and amendment of roll

connected with the matter of appeal and such roll shall be altered and amended according to the decision of the judge, if then given, who shall write his initials opposite any part of the said roll in which any mistake, error or omission is corrected or supplied and if the decision is not then given the secretary treasurer of the municipality shall when the same is given forthwith alter and amend the roll according to the same and shall write his name opposite every such alteration or correction;

Judge's powers

8. In all such proceedings the judge shall possess all such powers for compelling the attendance of and for the examining on oath of all parties whether claiming or objecting or objected to and all other persons whatsoever and for the production of books, papers, rolls and documents and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the supreme court;

Title of proceedings

9. All process or other proceedings in, about or by way of appeal may be entitled as follows:

In the matter of appeal from the court of revision of the municipality of

*A.B.*,
Appellant,
and
*C.D.*,
Respondent;

Cost of proceedings

10. The costs of any proceeding before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the judge thinks proper; and where costs are ordered to be paid by any party the same shall be enforced by execution to be issued as the judge may direct from the supreme court or in the same manner as upon an ordinary judgment for costs recovered in such court;

Taxation

11. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, the same to be taxed according to the allowance in the court for such costs; and in case where execution issues the costs thereof as in the like court and of enforcing the same may also be collected thereunder;

Decision final

12. The decision and judgment of the judge shall be final and conclusive in every case adjudicated upon and can only be appealed from by a unanimous vote of the council. C. O. 70, s. 138.

## SINGLE TAX.

Single tax

**139.** The council of a municipality may by bylaw authorise the levying and collecting of a rate or rates of so much on the dollar based upon the actual value of all lands (without improvements) in the municipality as the council deems sufficient for the current year to raise the sum required in their estimates but in no case shall the rate imposed exceed four cents on the dollar of the assessment in any one year including general, school, special and debenture rates. C. O. 70, s. 139.

**140.** The adoption of the preceding section by any municipality shall be optional, which must be decided by a two-thirds majority of the members of the council; or upon receipt of a petition signed by one-half of the resident ratepayers of the municipality the council shall adopt and carry into effect the provisions of the preceding section. C. O. 70, s. 140. **Optional**

**141.** This system of assesment shall become permanent after a petition signed by one-half of the resident ratepayers has been presented for two years in succession. On a petition signed by one-half of the resident ratepayers the trustees shall direct the assessor to revert to the former system of taxation. C. O. 70, s. 141. **Permanent on petition**

ESTIMATES.

**142.** The council of every municipality shall every year on or before the fifteenth day of July make estimates of all sums which may be required for the lawful purposes of the municipality for the year or that part thereof for which sums are required to be levied making due allowance for the cost of collection and abatement and losses which may occur in the collection of the taxes on the lands of nonresidents. C. O. 70, s. 142. **Estimates**

RATES.

**143.** The council of the municipality shall pass a bylaw authorising the levying and collecting of a rate or rates of so much in the dollar of the assessed value of the property therein as the council deems sufficient to raise the sum required in such estimates including improvement tax, general fund, local fund and school rates together with interest on the debt and sinking fund and shall not exceed two and a half cents on the dollar except as provided for in section 139 hereof. C. O. 70, s. 143. **Rates**

**144.** The secretary treasurer shall on or before the first day of September in each year prepare a tax roll containing columns for all information required by this Ordinance to be entered therein in which he shall set down in full the name of every person assessed, his post office address and the assessed **Tax roll**

value of his real and personal property and taxable income as ascertained from the assessment roll as finally revised; he shall calculate and set down opposite each such entry in columns headed "General fund," "Debenture fund," "School fund," "Statute labour fund" as the case may be, the sum for which such person or property is chargeable on account of each rate and under the column headed "Arrears of taxes" the sum which may appear on the books of the municipality as arrears on such parcel of land at that date; and in the column headed "Total" the total amount of taxes for which each parcel of land is liable. C. O. 70, s. 144.

Taxes due 1st January

**145.** All taxes shall be considered to be due on the first day of January of the year in which the same are levied. C. O. 70, s. 145.

Tax notice

**146.** The secretary treasurer shall on or before the first day of October in each year, transmit by mail a notice containing a statement and demand of taxes to each person whose name appears on said roll or to the agent of such person whose address has been transmitted to him and such statement and demand shall state the time such taxes are required to be paid and dates on which any reductions and penalties authorised by the council shall be allowed or charged as the case may be; and the secretary treasurer shall enter the date of mailing such notice in said tax roll opposite the name of the person taxed and such entry shall be *prima facie* evidence of the mailing of such notice and demand. C. O. 70, s. 146.

Seizure may be made

**147.** In case any person neglects to pay his taxes for thirty days after such demand as aforesaid the secretary -treasurer may by himself or his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same or of any goods or chattels in his possession wherever the same may be found within the municipality or of any goods or chattels found on the premises the property of or in the possession of any other occupant of the premises and may impound the same on the premises where distrained and no claim of property, lien or privilege shall be available to prevent the sale or the payment of the taxes and costs out of the proceeds of sale thereof; but any such distraint shall be made on or before the 30th day of December in each year. C. O. 70, 147.

Demand of income tax from employer

**148.** In case any person neglects or refuses to pay any income tax when demanded by the secretary treasurer the secretary treasurer shall then demand from the employer or employers of the person so neglecting or refusing the amount due for such income tax and the person paying the same shall deduct the amount so paid from the salary or wages due the person so neglecting or refusing and the said employer or employers are hereby rendered liable for the amount or amounts demanded by the secretary treasurer if they fail to deduct the same from the salary or wages due to the person employed. C. O. 70, s. 148.

Notice of sale

**149.** The secretary treasurer shall by advertisement over his hand posted up at three public places within the municipality within which the sale of goods and chattels distrained is to be made give at least six days public notice of the time and place of such sale and of the land on which the same was distrained; and at the time named in the notice the secretary treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes including costs and charges allowed by this Ordinance. C. O. 70, s. 149.

Disposal of surplus

**150.** If the property distrained has been sold for more than the amount of taxes and costs and if no claim for the surplus has been made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or right to the surplus such surplus shall be returned to the person in whose possession the said property was when the distress was made or if such claim be made by the person for whose taxes the property was distrained and the claim is admitted the surplus shall be paid to the claimant. C. O. 70, s. 150.

In case of dispute surplus held pending

**151.** If the claim is contested such surplus money shall be paid into the general fund of the municipality and shall be retained until the respective rights of the parties have been determined by action at law or by arbitration as provided in this Ordinance. C. O. 70, s. 151.

Taxes Recovery as a debt

**152.** Taxes may be recovered with interest and costs as a debt due to the municipality in which case the production of a copy of so much of the tax roll as relates to the taxes payable by such person purporting to be certified as a true copy by the secretary treasurer of the municipality shall be *prima facie* evidence of the debt. C. O. 70, s. 152.

Evidence

Costs allowed

**153.** The costs chargeable for distress and sale shall be as follows:

| | |
|---|---|
| Mileage going to and returning from place of seizure each mile necessarily travelled | $0 10 |
| Seizure | 1 00 |
| Taking care of property, the sum actually disbursed not exceeding $1.50 per day | |
| Notices of sale and posting up | 1 00 |
| For selling, 5 per cent. of the amount realised not exceeding the amount of the taxes. C. O. 70, s. 153. | |

Statement of taxes collected and in arrear

**154.** On or before the tenth day of January in each year the secretary treasurer shall make a return showing the total amount of taxes collected on the tax roll of the preceding year specifying the separate amounts that should be credited to the different funds for which a rate had been ordered to be struck by the council also an abstract of the tax roll showing the names and addresses of all persons whose taxes have not been paid and the total amount due for each parcel of land assessed to each such delinquent and he shall submit such return to the council at its first meeting thereafter and shall verify such return by the following declaration:

Declaration of secretary treasurer

I, , secretary treasurer of the municipality of do solemnly declare as follows:

1st. That the return herewith submitted contains a true statement of the taxes collected by me on the tax roll of the year;

2nd. That I have deposited the sums so collected in the bank as directed by resolution of the council;

3rd. That I have made diligent inquiry and have been unable to discover within the limits of the municipality sufficient goods or chattels belonging to or in the possession of the persons charged with or liable to pay any sums that appear in the list of unpaid taxes herewith submitted whereon I could levy any part of the taxes due.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893.*

Declared before me at the day of 1 . C. O. 70, s. 154.

Suitable books to be provided

**155.** The council of every municipality shall provide a book suitably ruled to be called the tax register in which shall be kept a list of all lands in arrears for taxes and the amount of such arrears and an official receipt book from which the secretary treasurer shall issue a receipt for every sum of money received by him on account of arrears of taxes and the secretary treasurer shall note on the stub of each receipt the name of the person making payment, the amount paid and date of payment. C. O. 70, s. 155.

**156.** As soon as possible after the first day of January in each year the secretary treasurer shall add any unpaid taxes (not including any arrears that may have been included in the total) that may appear on the tax roll of the preceding year against any piece of land to the arrears of taxes already charged in the tax register and also six per centum on the whole amount then due: Arrears of taxes

Provided that in case any land shall have been advertised for sale but for any reason has not been sold the proportionate cost of advertising authorised by section 183 of this Ordinance shall be included as part of the arrears chargeable to such land. C. O. 70, s. 156. Proviso

**157.** The secretary treasurer shall not be required to keep a separate account of the several distinct rates which may be charged on lands but all arrears from whatever arising shall be taken together and form one charge on the land. C. O. 70, s. 157. Arrears to be included as one sum

**158.** The secretary treasurer of any municipality shall not receive any part of the arrears charged against any parcel of land less than the taxes for one year thereon with accrued interest but if satisfactory proof is adduced to the secretary treasurer that any parcel of land on which taxes are due has been subdivided he may receive the proportionate amount of tax chargeable upon any of the subdivisions and leave the other subdivision or subdivisions chargeable with the remainder; and the secretary treasurer may in his books divide any piece or parcel of land which has been returned to him in arrears of taxes into as many parts as the necessities of the case may require. C. O. 70, s. 158. Payment of proportionate amount of tax

**159.** In case the secretary treasurer fails or omits to collect the taxes or any portion thereof by the day appointed the council of the municipality may by resolution authorise some other person in his stead to continue the levy and collection of the unpaid taxes in the manner and with the powers provided by law for the general levy and collection of taxes. C. O. 70, s. 159. Substitute may be appointed for secretary treasurer

**160.** The secretary treasurer shall in addition to the salary allowed him by the council be entitled to receive a commission Secretary treasurer's commission of $2\frac{1}{2}$ per cent. on all moneys paid him on account of arrears of taxes that have not been paid before the return under section 154 hereof for the year in which they became due has been made which shall be collected from the party paying the arrears of taxes at the time; and the said commission shall not apply or be chargeable where lands may be advertised for sale or sold by him for arrears of taxes. C. O. 70, s. 160.

Books
Manner of keeping

**161.** The secretary treasurer shall keep regular books of accounts in such manner as may be directed from time to time by the council and shall show faithfully all moneys received and how expended having each item posted in the ledger to the separate accounts of receipt and expenditure as agreed upon by the council in making their estimates for the year or as directed by the council and he shall exact and retain vouchers for all moneys paid and he shall prepare and submit to the council at least once in every month a correct statement of the moneys received and for what paid out and the balance at the credit of the municipality. C. O. 70, s. 161.

Secretary treasurer shall apportion and deposit taxes

**162.** The secretary treasurer shall at least once in each month apportion all taxes collected by him whether received from the tax roll of the current year or the tax register; and he shall credit each account in his book with the respective amount collected and forthwith deposit the total amount collected as required by section 111 of this Ordinance. C. O. 70, s. 162.

Secretary treasurer to give statement of arrears

**163.** The secretary treasurer shall on demand give to the owner of any land charged with arrears of taxes a written statement of the arrears at that date certified under his hand and he may charge twenty cents for the search on each separate lot or parcel not exceeding four and for every additional ten lots or parcels a fee of twenty cents. C. O. 70, s. 163.

Disposal of sinking fund

**164.** It shall be the duty of the secretary treasurer to see that moneys collected under bylaw for the purpose of payment of interest on debentures issued by the municipality or providing for a sinking fund for the same are properly applied.

Diversion from proper account

(2) In the event of the council of any municipality diverting any of said moneys for such current or other expenditures save as aforesaid the members who vote for the diverting of such moneys shall be personally liable for the amount so diverted and said amount may be recovered in any court of competent jurisdiction; and the members who may have voted for the same shall be disqualified for holding any municipal office for the period of two years. C. O. 70, s. 164.

### POLL TAX.

**165.** Except members of her Majesty's naval or military force on full pay or on actual service or of the North-West Mounted Police force or of a fire company duly organised by bylaw of the municipality every male inhabitant of a town municipality of the age of twenty-one years and upwards who has resided in the said town for a period of two months or more and has not been assessed on the assessment roll of the municipality shall be taxed at $2 yearly.

Poll tax Exceptions

(2) Persons residing within two miles of a town municipality who have a place of business therein and whose names are not on the assessment roll or who receive employment and are paid wages or salary therein are hereby liable to pay poll tax subject to the provisions of this Ordinance. C. O. 70, s 165.

**166.** Any person liable to pay taxes imposed by the next preceding section shall pay the same to a collector appointed by bylaw of the council of the municipality to collect the same, within three days after the demand thereof by the said collector; and in case of neglect or refusal to pay the same within such time the said collector may levy the same by distress and sale of the goods and chattels of the defaulter with costs of the distress and sale:

Collection of poll tax

Provided that in case any person neglects or refuses to pay the poll tax when demanded by the collector the collector shall then demand from the employer or employers of the person so neglecting or refusing, the amount due for such poll tax and the person paying the same shall deduct the same so paid from the salary or wages due to the person so neglecting or refusing and the said employer or employers are hereby rendered liable for the amount or amounts demanded by the collector if they fail to deduct the same from the salary or wages due to the person employed. C. O. 70, s. 166.

Demand from employers

### SCHOOL TAXES.

**167.** The trustees of any school district, any portion of which is situated within a municipality, may demand of the council of the municipality that the amount for which the school district or the part thereof situated within the municipality is liable for school purposes shall be imposed and collected by the municipality and the land and other property of persons liable for such amounts shall be assessed and the same shall be collected as other rates by the municipality. C. O. 70, s. 167.

Collection of school rate

Deficiency in

**168.** If the amount collected falls short of the sum required the council may direct the deficiency to be made up from any fund belonging to the municipality except sinking funds to retire debentures. C. O. 70, s. 168.

How supplied

**169.** If there be no unappropriated funds the deficiency may be deducted from the sums estimated as required or from any one or more of them but not from the estimates supplied by the school trustees. C. O. 70, s. 169.

Surplus

**170.** Should the amount collected exceed the estimates the sum in excess shall be paid over to the treasurer of the school board. C. O. 70, s. 170.

Surplus of special tax

**171.** In cases where the amount collected has been on account of some special purpose and is not required for such purpose it shall also form part of the general fund of the municipality. C. O. 70, s. 171.

## ROAD OVERSEERS AND STATUTE LABOUR.

Road overseer's lists

**172.** In the event of the municipal council failing to collect a statute labour tax as hereinafter provided the secretary treasurer of every rural municipality shall within one week after the final revision of the assessment roll deliver to the road overseer or road overseers appointed by the council a list of all parties assessed and liable for statute labour within their respective divisions and the amount of statute labour for which each of such parties is liable. C. O. 70, s. 172.

Duties of road overseer

**173.** It shall be the duty of the road overseer so soon thereafter as convenient after having received from the secretary treasurer of the municipality a list of parties liable for the performance of statute labour to notify and require them respectively to meet him at a certain time and place to perform the labour imposed upon them by the council but no person shall be compelled to do statute labour further than four miles from his home. C. O. 70, s. 173.

Labour, how performed

**174.** All statute labour imposed by this Ordinance shall be performed under the direction of the road overseer who shall be liable to the council for the due performance of the same and shall report to the council any refusal or neglect of parties assessed to perform the labour imposed upon them. C. O. 70, s. 174.

**175.** All statute labour to be done under this Ordinance shall be performed on the public roads of the municipality or on the bridges, drains or ditches therein to benefit and improve the same or as may be determined by the council. C. O. 70, s. 175.

Labour, where performed

**176.** Every person assessed upon the assessment roll of a rural municipality shall be liable to perform two days' statute labour for each quarter section of land for which he is assessed and in any portion of a rural municipality divided into lots every person assessed shall, if his property be assessed at not more than $300, be liable to perform one day's statute labour and for every $500 or part thereof in excess of said sum, an additional day's statute labour and every male inhabitant of a rural municipality of the age of twenty-one years or upwards and under the age of sixty years whose name is not on the last revised assessment roll shall be liable to one day's statute labour, provided that he shall have resided in such municipality for not less than two months. C. O. 70, s. 176.

Amount due by each person

Proviso

**177.** Every person liable to statute labour as hereinbefore provided who refuses or neglects to perform the statute labour for which he is liable when ordered to do so by the overseer shall be deemed to have commuted the same at the rate of $1.25 per day and the amount of the commutation shall be a charge and shall be collectable against real property, goods and chattels as other rates. C. O. 70, s. 177.

Labour deemed to be commuted and amount collectable as taxes

**178.** The council of any rural municipality may by bylaw commute the statute labour of any person or persons resident within the municipality with regard to any certain specified property for a term of years in consideration of statute labour to be performed in any one year. C. O. 70, s. 178.

Council may commute for a term of years

**179.** Any person liable to pay any sum for statute labour commuted as aforesaid shall pay the same to the collector appointed to collect the same within seven days after the demand thereof by the said collector and, in case of neglect or refusal to pay the same, the collector may levy the same by distress and sale of the goods and chattels of the defaulter, with costs of the distress and sale, and if no sufficient distress can be found then upon summary conviction before a justice of the peace of his refusal or neglect to pay the said sum and of there being no sufficient distress and in default of payment at such time as the convicting justice may order, such defaulter shall be committed to the lock up house of the municipality or to the nearest common gaol and be there put to hard labour for any

Penalty for nonpayment of commutation money time not exceeding ten days unless such penalty and costs and the costs of the warrant of committment and of conveying the said person to gaol be sooner paid. C. O. 70, s. 179.

May substitute money tax

**180.** Any municipality may by bylaw provide that instead of statute labour as herein provided a special tax to be called the statute labour tax may be collected not exceeding $1.25 per day for each day for which any person is liable under section 176 of this Ordinance. C. O. 70. s. 180.

Persons liable must notify overseer of intention to commute

**181.** Every other person liable for the performance of statute labour under this Ordinance shall within fourteen days after the final revision of the assessment roll notify the secretary treasurer of the municipality in writing of his intention to commute the same by the payment as hereinbefore provided or failing so to do he shall be bound to perform the amount of statute labour imposed upon him as the road overseer may direct but he shall not be compelled to go further from his home than four miles to do said labour. C. O. 70, s. 181.

# Part IV.

## Sale of Land for Taxes.

### ADVERTISEMENT AND SALE.

List of lands in arrear Warrant for sale of

**182.** Whenever any portion of taxes on any land has been due for two years the secretary treasurer shall submit to the mayor or reeve as the case may be a list of all the lands in his books on which taxes are so due with the amount of arrears against each lot set opposite to the same and the mayor or reeve shall authenticate such list by affixing thereto the seal of the corporation and his signature and shall return such list to the secretary treasurer with a warrant thereto annexed under his hand and the seal of the municipality commanding him to levy upon the land for the arrears due thereon with costs and the said secretary treasurer is hereby authorised to sell the same. C. O. 70, s. 182.

Costs to be added and notice published

**183.** The secretary treasurer shall prepare a copy of the list of lands to be sold as authorised by this Ordinance and shall include therein in a separate column a statement of the proportion of costs chargeable on each lot for advertising and the sum of twenty-five cents for each parcel advertised for sale and shall cause the said list to be published at least once a week for four consecutive weeks in at least one newspaper published in the municipality and, if there is no newspaper published therein, then in the newspaper published nearest to the municipality; and for the next following five consecutive weekly issues of said newspaper preceding the day of sale therein named shall publish a notice therein in form following:

> Sale of lands in the (*fill in proper title*) for arrears of taxes.
>
> Notice is hereby given that certain lands in the (*fill in proper title*) will be offered for sale for arrears of taxes (*stating the day, time and place where and when the said lands are to be sold and the dates of the issues of said newspaper in which a full list of said lands may be found*).

and shall also publish a similar notice in *The North-West Territories Gazette* during the said nine weeks. C. O. 70, s. 183.

**184.** The advertisement shall contain a notification that unless the arrears of taxes and costs are sooner paid the secretary treasurer will proceed to sell the lands for taxes on the day and at the place mentioned in the advertisement. C. O. 70, s. 184. **Advertisement, contents**

**185.** Every such notice shall specify the place, day and hour at which the sale shall commence and each lot or parcel of land shall be designated therein by a reasonable description for registration purposes. C. O. 70, s. 185. **Advertisement, contents**

**186.** All the lots liable for sale in the municipality shall be included in the same statement and notice but any neglect or omission to include any lands liable for sale in said list shall not be held to invalidate the sale or prevent the sale of such omitted land on any future occasion for all arrears of taxes that may be due thereon. C. O. 70, s. 186. **Lands omitted may be sold later**

**187.** The day of sale shall not be more than forty days after the last publication as hereinbefore provided and the sale shall take place at such place in the municipality as the council shall from time to time by resolution appoint and, in the absence of such appointment, at such place in the municipality as the secretary treasurer in his said notice shall name. C. O. 70, s. 187. **Date of sale**

**188.** The secretary treasurer may adjourn the sale from time to time provided always that no such adjournment shall be for a period exceeding fifteen days. C. O. 70, s. 188. **Sale may be adjourned**

Proceedings at sale

**189.** At the place, day and hour appointed for the sale of lands (if the taxes thereon including costs and charges have not previously been paid) the secretary treasurer shall offer the lands for sale by public auction and in so doing shall make and declare the amounts stated in the list as the taxes due with his charges and costs as the upset price on each respective lot or parcel as offered for sale and shall thus sell the same to the highest bidder or to such person as may be willing to take it at the upset price, there being no higher bidder, but subject to redemption as hereinafter provided for. C. O. 70, s. 189.

Sale to municipality

**190.** If no bidder appears for any land for the full amount of arrears of taxes, costs and charges the secretary treasurer shall there and then sell the same to the municipality at the upset price. C. O. 70, s. 190.

Payment of purchase money

**191.** If the land sells for a greater sum than the taxes due together with all charges thereon the purchaser shall only be required to pay at the time of sale the amount of said taxes and charges and the balance of the purchase money shall be payable within one calendar month after the time of redemption of the said land shall have expired without the same having been redeemed within the time limited and if the said balance of purchase money shall not be so paid by the purchaser, his heirs or assigns, within the time above prescribed he and they shall forfeit all claim to the said land and to any transfer or conveyance thereof as well as to the amount paid at the time of sale and such land shall thereupon cease to be affected by said sale. C. O. 70, s. 191.

Purchaser failing to pay, resale

**192.** If the purchaser of any parcel of land fails immediately to pay the secretary treasurer on account of said purchase the amount claimed for arrears of taxes and charges the treasurer shall forthwith again put the property up for sale. C. O. 70, s. 192.

Certificate to purchaser

**193.** The secretary treasurer after selling any land for taxes shall give to the purchaser a certificate describing the land as advertised stating the amount of taxes and costs paid and the total amount of purchase money and further saying that a transfer of the same to the purchaser or his assigns shall be executed by the secretary treasurer on his or their demand within one month after the expiration of one year from the date of the certificate if the land be not previously redeemed and upon payment of the balance of the purchase money if any remains unpaid and upon payment of $2 for said transfer. C. O. 70, s. 193.

**194.** The purchaser shall on receipt of the secretary treasurer's certificate of sale become the owner of the land so far as to have all necessary rights and powers for protecting the same from spoliation and waste until the expiration of the term during which the lands may be redeemed. C. O. 70, s. 194. Purchaser's rights

**195.** A statement of the lands so sold for arrears of taxes with the names of the respective purchasers, the date of sale, the time of redemption and the amount required to redeem shall within thirty days of the date of sale or adjourned sale be made out and signed by the secretary treasurer in duplicate and one copy shall be kept by the secretary treasurer and the other delivered to the mayor or reeve and either of the said lists may be inspected at any time during office hours for a fee of ten cents for each lot of which inspection is desired. C. O. 70, s. 195. List of land sold to be kept for inspection

REDEMPTION.

**196.** The owner of any land which may hereafter be sold for taxes or his heirs, executors, administrators or assigns or any other person on his or their behalf but in his name only may at any time within one year from the date of sale exclusive of that date redeem the real estate sold by paying to the secretary treasurer before the hour of three o'clock in the afternoon of the said last day for redemption for the use and benefit of the purchaser or his legal representatives the sum paid by him together with ten per cent. thereon and any further sum which shall have been levied against said land and paid by the purchaser before date of redemption and the secretary treasurer shall give the party paying such redemption money a receipt stating the sum paid and the objects thereof and such receipt shall be evidence of the redemption. C. O. 70, s. 196. Redemption of lands sold

**197.** For the purpose of this Ordinance the day of sale shall be the day on which the sale was advertised to take place without reference to any adjournment or adjournments and all certificates shall be dated as of that day. C. O. 70, s. 197. Date of redemption

**198.** From the time of payment to the secretary treasurer of the full amount of redemption money required by this Ordinance all rights and interests of the purchaser shall cease. C. O. 70, s. 198. Purchaser's rights cease on redemption

**199.** Whenever such redemption is effected by a person not specially authorised the secretary treasurer shall mention in the receipt given by him for the redemption money the name and Receipt when redemption by person unauthorised designation of the person paying the same and the name of the person on whose behalf the payment is made and every redemption receipt shall be made out in duplicate; one copy shall be given to the person paying the redemption money and one shall remain on file in the office of the secretary treasurer. C. O. 70, s. 199.

Notice to purchaser

**200.** The secretary treasurer shall also immediately after the redemption of any land give notice by registered letter to the party appearing by his books to be the purchaser of the same apprising him of the fact of such redemption and of the amount of money paid in for such purpose. C. O. 70, s. 200.

## TRANSFER ON NONREDEMPTION.

On non-redemption transfer may issue

**201.** If the land be not redeemed within the period allowed by this Ordinance then on demand of the purchaser, his heirs or assigns or other legal representatives at any time within one month after the expiration of the time limited for the redemption upon payment of the balance of purchase money as aforesaid and of the further sum of $2 the secretary treasurer shall prepare and execute and deliver to him or them a transfer of the land sold provided that any land sold to the municipality under the provisions of this Ordinance as hereinbefore provided shall be transferred to the municipality by the secretary treasurer of the municipality immediately on the expiration of the time allowed for the redemption without charge; such transfer shall be in form G given in the schedule to this Ordinance or to the same effect and shall state the date and cause of sale and the price and shall have the effect *upon confirmation of the sale by a judge* of vesting the land in the purchaser, his heirs, assigns and other legal representatives in fee simple or otherwise according to the nature of the estate sold and no such transfer shall be invalid by reason of any error or miscalculation in the amount of taxes in arrear. C. O. 70, s. 201, and 1901, c. 23, s. 6.

Tax transfer cancels all prior claims

**202.** Such transfer shall not only vest in the purchaser all rights of property which the original holder had therein, but shall also purge and disencumber such land from all payments, charges, liens, mortgages and incumbrances of whatever nature and kind other than existing liens of the municipality or crown and whenever lands are sold for arrears of taxes and the secretary treasurer shall have given a transfer thereof such transfer shall notwithstanding any informality or defect in or preceding such sale be valid and binding to all intents and purposes except as against the crown.

(2) *After the expiration of one year from the date of any such transfer the sale and transfer may be set aside only upon its being shown either:*

1. *That there has been fraud or collusion; or*
2. *That all taxes have been paid; or*
3. *That the land was not liable to assessment.* C. O. 70, s. 202, and 1901, c. 23, s. 7.

**Title in Crown**

**203.** When the title of any land sold for arrears of taxes is vested in the crown the transfer thereof in whatever form given shall be held to convey only such interest as the crown may have given or parted with, or may be willing to recognise or admit that any person possesses under any colour of right whatever; and the municipality in case of any sale for taxes being declared invalid shall be liable only for the purchase money actually paid therefor to the secretary treasurer and legal interest thereon as for damages or otherwise. C. O. 70, s. 203.

**Invalid sales Liability of municipality**

TAX SALE FUND.

**Tax sale fund**

**204.** The secretary treasurer shall keep a separate account of all sums paid to him as a balance of purchase money on lands sold for arrears of taxes and not redeemed and shall enter in the book the amount received over the taxes and charges from the purchaser of any lots sold by him against said lot with date of sale and of receipt of balance and the aggregate amount so received shall form a fund to be called the tax sales fund and the secretary treasurer shall in the month of January in each year and on request at any other time, furnish a statement to the council giving the particulars respecting such fund and whenever any portion of such fund shall have remained in the hands of the secretary treasurer for six years from the day of sale of the land of the purchase money of which it forms a part, without any notice of claim or order for payment having been served on him as hereinafter provided, said portion or sum so remaining unclaimed shall have been forfeited and thereafter be the absolute property of the municipality and the said municipality shall for ever be discharged from any claim on account thereof. C. O. 70, s. 204.

**Surplus may be claimed**

**205.** Any person claiming to have been the owner, heir, assignee or legal representative of the owner or otherwise interested in any parcel of land sold for taxes and transferred as aforesaid which shall have realised more than the amount due for taxes and charges shall be entitled to claim and receive the said overplus or sum held to the credit of said parcel of land in the tax sale fund or any portion thereof specified in the order hereinafter mentioned provided that written notice is served upon the secretary treasurer previous to the time limited for forfeiture and upon producing and leaving with the secretary treasurer within six months from the date of service of such notice of claim an order signed by a judge reciting that it had been proved to the satisfaction of said judge that the claimant was at the time of sale the lawful owner of the land in respect to which claim is made or was or is the heir, executor, assignee or legal representative of the said owner or otherwise interested in the said land and requiring the municipality to pay the said surplus money or the portion thereof specified in the order to the said claimant and such or any judge's order for payment of any part of said tax sale fund shall be kept by the secretary treasurer and shall be the warrant and authority for making such payment. C. O. 70, s. 205.

Evidence of right to surplus

**206.** In seeking to obtain a judge's order any claimant upon said fund shall in person or by advocate petition the judge in writing for that purpose describing the land sold and setting forth the particulars of said sale and the title under which the said money is claimed and shall at the same time furnish such evidence of title as may be necessary for proving his title or interest to the satisfaction of the judge, and the facts set forth in the petition shall be verified by affidavit so far as may be necessary to satisfy the judge of the *bona fide* nature of the claim and the said judge may in his discretion require the claimant to serve a notice of his application upon the municipality or publish the same in any manner he may deem proper or substantiate his claim in any other manner and the judge may in his discretion order said money to be paid into the supreme court there to be dealt with in such manner as the court shall order and in such case a copy of his order stating the reason therefor shall be filed in the said court and served upon the secretary treasurer. C. O. 70, s. 206.

Fees payable

**207.** The same fees shall be paid upon an application made under the last preceding section as are payable in respect of other applications in chambers for a judge's order in any suit or procedure. C. O. 70, s. 207.

Costs how, payable

**208.** In any case where the judge deems it advisable to order notice to be served upon the municipality he shall in the final decision of the question if the claimant is successful order the costs of the municipality to be paid out of the fund in question and in case the claimant fails shall order execution to issue against him from the said court, after taxation, for the costs of the municipality. C. O. 70, s. 208.

Claimant admits validity of sale

**209.** The fact of claiming any surplus held to the credit of any lots sold for taxes in the said tax sale fund shall be considered an admission of the validity of the sale of the lot in question by the claimant and the said claimant and all claiming by, through or under him shall from and after the time of making such claim be debarred from taking any proceeding to question or set aside such sale notwithstanding that said claim shall have been made within the time otherwise limited for taking any proceedings to invalidate any tax sale and said sale shall thereafter be held to be in all respects valid and binding as against the claimant and those claiming by, through and under him as aforesaid. C. O. 70, s. 209.

Pending suit questioning sale Surplus not to be forfeited

**210.** In case of any suit or proceeding to set aside or question a sale for arrears of taxes being commenced within two years and one month from the date of said sale, being the time within which only any such action can be brought or proceeding taken for that purpose, the plaintiff shall within ten days after commencing his action or proceeding cause the secretary treasurer to be notified in writing of the fact of his action or proceeding having been commenced and the secretary treasurer in such case shall not forfeit any surplus held by him to the credit of the parcel of land in dispute but shall hold the same subject to the order of any judge or court before whom the said action or proceeding shall or may be tried and in case the plaintiff succeeds the judge or court shall order said surplus repaid to defendant, the tax sale purchaser or his proper representatives, and in case the plaintiff fails in such action or proceeding to set aside such sale but proves to the satisfaction of the judge or court that he was at the time of sale the lawful owner of said land and the person entitled to the said surplus money according to the true intent and meaning of this Ordinance then in such case the judge or court shall order such surplus money to be paid over to the plaintiff or his proper representatives upon and after payment by said plaintiff of such costs of the defendant as he may have been ordered to pay.

(2) The provisions of this and the next preceding section are hereby declared applicable only to lands for which certificates of title have not been granted. C. O. 70, s. 210.

### TAX SALES. LIABILITY OF MUNICIPALITY.

Liability of municipality limited

**211.** In no case shall the municipality be liable for damages or costs in any suit brought to set aside a tax sale or be liable for any damages or costs arising therefrom in any way further than, in case of sale held void by a competent court, refunding to the purchaser the amount of money actually received with legal interest. C. O. 70, s. 211.

# PART V.

## Bylaws for Creating Debts and Exempting from Taxation.

### INTRODUCTION AND FORM OF BYLAWS.

Special rate in particular area

**212.** In case the majority of the resident ratepayers of any portion of a municipality divided into lots petition the council thereof setting forth the desire of such resident ratepayers to incur a debt or liability repayable in the financial year, the council may by bylaw levy a special rate against all the property within the area (which shall be described in the petition) as set forth in such petition and such rate shall be collectable as all other rates assessable by the municipality. C. O. 70, s. 212.

Bylaws for creating debt

**213.** Every municipality may subject to the following provisions pass bylaws for contracting debts by borrowing money or otherwise and for levying rates for the payment of such debts on the ratable property of the municipality for any purpose within the jurisdiction of the municipality or on roads and bridges or waterworks outside the limits of the municipality:

Limit

Provided that no municipality shall have power to pass such bylaws for contracting debts to a greater extent than ten per cent. of the assessed value of the *ratable* property in the said municipality. C. O. 70, s. 213, and 1904, c. 6, s. 1.

Must have assent of two-thirds of ratepayers voting

**214.** Bylaws for contracting debts or borrowing money which do not provide for the payment of the debts contracted or money borrowed within the financial year shall before the final passing thereof receive the assent of two-thirds of the duly qualified ratepayers voting thereon in the manner hereinafter provided. C. O. 70, s. 214.

Petition of ratepayers for introduction of bylaw

**215.** No bylaw for *making loans or* granting bonuses to manufactories, mills, railways or any works of a public nature or guaranteeing the payment of debentures of companies to assist them in the operation of elevators, for exemption from taxation for a longer period than one year or for building, owning or operating grist mills, elevators and manufacturing establishments or subscribing for stock therein shall be introduced or entertained by the council except on a petition of one-half the resident ratepayers of the municipality; and all such bylaws shall before the final passing thereof receive the assent of two-thirds or more of the votes polled:

Provided however that upon the introduction of any such bylaw no informality in the proceedings prior to such introduction shall affect its validity. C. O. 70, s. 215, and 1901, c. 23, s. 8.

**216.** If contracted for the purpose of subscribing for stock in a railway or street railway company or for granting a bonus in aid of a railway or street railway or of any undertaking for public lighting or draining or for supplying water to the inhabitants for fire or domestic purposes or for the purpose of constructing any public works the debt may be made payable within any period not exceeding, in the case of railways, forty years and in all other cases twenty years and no longer, from the date upon which the bylaw takes effect. In case any municipality shall already have been authorised by bylaw to borrow money for any of the purposes aforesaid the municipality may extend the time for the payment of the debentures to be issued in pursuance of such bylaw over the period authorised by this section although the same shall exceed the period named in the bylaw and for this purpose the municipality may reacquire any debentures already issued under any such bylaw and issue debentures in their stead extending over the longer period as aforesaid. C. O. 70, s. 216.

**Term for repayment**

**217.** The bylaw shall recite:

**Provisions of bylaw**

(*a*) The amount of the debt which such new bylaw is intended to create and in some brief and general terms the object for which it is to be created;

(*b*) The number of years over which such indebtedness is to be spread;

(*c*) The amount of the whole ratable property according to the last revised assessment roll;

(*d*) The total amount of the existing debt of the municipality outside of the debt due for the current expenses of the year;

(e) A day not more than three months from the day on which the voting is to take place when the bylaw shall take effect;

and the whole of the obligations to be issued for the debt authorised shall be dated as of the day on which the bylaw takes effect. C. O. 70, s. 217.

**218.** * * * * * * * * * * * *

### VOTING ON BYLAWS.

Voting on bylaws

**219.** In case a bylaw requires the assent of the electors of the municipality before the passing thereof the following proceedings shall be taken for ascertaining such consent:

1. The council shall by the bylaw fix a day and hour for taking the votes of the electors and such places in the municipality as the council shall in their discretion deem best and shall name a returning officer and deputy returning officers to take the votes at each place where the votes are to be taken and the day so fixed for taking the votes shall not be less than three nor more than four weeks after the first publication of the proposed bylaw as hereinafter provided. C. O. 70, s. 219.

Publication of bylaw

**220.** The council shall before the voting thereon by the ratepayers publish a copy of the bylaw in some public newspaper published within the said municipality or, if there be no such newspaper, in some public newspaper near the municipality, which publication shall be continued in at least one number weekly of such newspaper for two consecutive weeks; and shall also put up a copy of the bylaw at four or more of the most public places of the municipality. C. O. 70, s. 220.

Notice appended to bylaw published

**221.** Appended to each copy so published shall be a notice signed by the secretary treasurer of the council stating that such copy is a true copy of a proposed bylaw which will be taken into consideration by the council after being voted on by the electors and stating the date of the first publication and the day, hour and place or places fixed for taking the votes of the electors. C. O. 70, s. 221.

Vote taken as at election of council

**222.** At such day and hour a poll shall be taken and all proceedings thereat and for the purposes thereof including a recount shall be conducted in the same manner as nearly as may be as at an election for mayor and councillors. C. O. 70, s. 222.

Form of ballots

**223.** The ballot papers shall be printed with "for the bylaw" and "against the bylaw" and shall be marked by the voter with a cross on the right side thereof opposite the words "for the bylaw" or "against the bylaw" as he may desire to vote. C. O. 70, s. 223.

Time and place of summing vote to be stated

**224.** The council shall in the bylaw fix the time and place when and where the returning officer of the municipality shall sum up the number of votes given for or against such bylaw. C. O. 70, s. 224.

**225.** On the application of any person interested in promoting or opposing the passage of the bylaw the mayor or reeve shall authorise the attendance of one person on behalf of the party applying at each polling place and at the final summing up of the votes. C. O. 70, s. 225. Scrutineers

**226.** Every ratepayer being a man, unmarried woman or widow shall be entitled to vote on any bylaw requiring the assent of the electors, who at the time of tendering the vote is of the full age of twenty-one years and is named on the last voters' list of the municipality and who has neither directly or indirectly received nor is in expectation of receiving any reward or gift for the vote which he tenders and who is at the time of the tender a freeholder in his own right or whose wife is a freeholder of real property within such municipality and is rated on the last revised assessment roll as such freeholder for not less than $400. C. O. 70, s. 226. Persons eligible to vote

**227.** Any ratepayer offering to vote on the bylaw may be required by the deputy returning officer or by any ratepayer entitled to vote on the bylaw to make, before his vote is recorded, the following oath or affirmation or any part thereof or to the effect thereof: Oaths

You swear that you are of the full age of twenty-one years; that you are the person named as                    in the voters' list; that you are a freeholder in your own right (*or* your wife is a freeholder) of real property within the municipality and rated on the last revised assessment roll as such freeholder for not less than $400; that you have not voted before on the bylaw now before the electors; that you have not directly or indirectly received any reward or gift nor do you expect to receive any for the vote which you tender; (*In the case of an unmarried woman or widow claiming to vote*) that you are unmarried (*or* a widow *as the case may be*). C.O. 70, s. 227.

**228.** The returning officer after he has received certified returns from the deputy returning officers of the number of votes given at each polling place shall at the time and place appointed by the bylaw in the presence of the persons authorised to attend, or such of them as may be present sum up from such statements the number of votes for and against such bylaw and shall then and there declare the result and forthwith certify to the council under his hand whether the majority of the electors entitled to vote who have voted upon the bylaw approved or disapproved of the same. C. O. 70, s. 228. Declaration of result

Final passing

**229.** Every bylaw which is carried by the required majority of the duly qualified electors who have voted thereon shall, within two weeks thereafter, be passed by the council which submitted the same. C. O. 70, s. 229.

**230.** * * * * *

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# PART VI.

## Local Improvements and Assessments.

Local Improvements

**231.** The term "local improvement" shall be taken to mean the opening, widening, straightening, extending, grading, levelling, macadamising, laying, paving or planking on any street or public lane, alley, way or place, sidewalk or bridge forming part of a highway; or the curbing, sodding or planting of any street or public lane, alley, square or other public way or place; or the making, deepening, enlarging or prolonging of any common ditch, drain or sewer; or the reconstructing, but not the mere repair and maintenance of any of the said works. C. O. 70, s. 231.

Special frontage assessment

**232.** The term "special frontage assessment" shall be taken to mean a rate charged according to the lineal measure along the front of the several lands fronting on the street or place whereon or wherein the improvement is to be made for the purpose of paying for such local improvement which rate shall be computed by dividing the total charge to be provided by special frontage assessment on said lands by the number of lineal feet frontage of such lands on the street or place whereon or wherein the local improvement is to be made. C. O. 70, s. 232.

Bylaw for

**233.** The municipal council of any town may pass bylaws:

1. For ascertaining and finally determining what portion if any of the cost of any local improvement should be borne by the municipality at large;

2. For assessing by way of a special frontage assessment the cost or a portion of the cost of any local improvement upon the lands fronting upon the street or place wherein or whereon the local improvement is to be made and for levying such cost or portion thereof by a special rate upon such lands;

3. For regulating the time or times and manner in which the rates for such improvements are to be paid;

4. For borrowing by way of temporary loan upon the credit of the municipality at large any moneys required to meet the cost of any local improvement provided that such temporary loan shall mature within six months from the making thereof; and for borrowing by the issue of debentures upon the credit of the municipality at large the moneys required to meet the cost of any local improvement or required to pay any temporary loan made for that purpose:

Provided that the amount of any such temporary loan or loans by way of debentures shall not increase the general debt of the municipality beyond the limits thereof fixed by any Ordinance in that behalf; and

Provided that such debentures shall mature within the probable life of the local improvement. C. O. 70, s. 233.

**Two-thirds of owners concerned must petition**

**234.** No assessment or levy shall be made under any bylaw passed under clause 2 of section 233 of this Ordinance except upon petition to the council of at least two-thirds in number of the persons registered or assessed as owners of the lands fronting on the street or place whereon or wherein the improvement is proposed to be made representing at least one-half of the value of such land excluding improvements thereon. C. O. 70, s. 234.

**Council may grant petition wholly or in part**

**235.** The request of the petition may be acceded to by the council either in respect of the whole or of a part of the street or place proposed to be improved:

Provided that part only of such street or place as described in the petition shall not be improved unless the petition is signed as is required by the last preceding section having regard only to the lands fronting on such part of the street or place. C. O. 70, s. 235.

**Completion of work**

**236.** After the council has resolved to grant the request of any such petition in whole or in part as aforesaid it shall be lawful for the said council in the same or the succeeding year to carry on the proposed improvement or service to completion before making the assessment therefor and such petition so presented shall stand good as authority for undertaking any such improvement and making such assessment or assessments and passing all necessary bylaws whether the improvements shall have been or shall be undertaken and completed by the council to whom such petition is presented or by the council in the succeeding year. C. O. 70, s. 236.

**Appeal from assessment**

**237.** There shall be a right of appeal against every assessment and rating made under the authority of any bylaw passed under the local improvement sections of this Ordinance to a court of revision to be composed of the mayor and council of the municipality and from such court of revision to a judge in the same manner and by the same procedure as nearly as may be as in case of an appeal from an ordinary assessment. C. O. 70, s. 237.

Notice of proposed frontage tax

**238.** Notice of every proposed special frontage rate shall be given by the assessor to the persons registered or assessed as owners or addressed to the last post office address of each such owner known to the assessor of the municipality of every parcel of land to be charged therewith by registered letter, and according as to the improvement has actually been made or is only contemplated, and the notice shall set forth:

(*a*) The probable lifetime of the proposed improvement as being the period over which the cost will be spread;

(*b*) The probable or actual cost of the improvement;

(*c*) The portion if any of the cost to be borne by the municipality at large;

(*d*) The portion of the cost to be provided by special frontage assessment;

(*e*) The frontage of the property upon which the special frontage assessment is to be levied stated in lineal feet;

(*f*) The rates of special frontage assessment per foot frontage;

(*g*) The amount chargeable to each lot or parcel of land assessed according to the rate per foot frontage;

(*h*) The value of the land chargeable with the special frontage rate exclusive of all improvements thereon;

(*i*) The time fixed for the sittings of the court of revision for the hearing of appeals in respect of the assessment and proposed special rate; such sittings to be not earlier than fifteen days from the date of mailing of the notices. C. O. 70, s. 238.

Record of mailing notice

**239.** A memorandum by the assessor in any proper book or roll kept for that purpose of the mailing of such notices and of the date thereof shall be *prima facie* evidence of the mailing of such notices in accordance with the last preceding section on the date mentioned in the memorandum. C. O. 70, s. 239.

Decision of court of revision or judge to be final

**240.** The decision of the court of revision or of the judge if there be an appeal from the court of revision shall be final and conclusive upon all matters respecting the assessment and special rate and the court of revision and the judge shall respectively have power in the event of the assessment of any party being decreased or increased on appeal to raise or lower proportionately the assessment of the other parties assessed without any further notice. C. O. 70, s. 240.

Contents of bylaw

**241.** Every bylaw passed for borrowing money for local improvements shall recite:

(*a*) The amount of the debt which such bylaw is intended to create and the object in general terms for which it is to be created;

(*b*) The total amount required to be raised annually by special rate for paying the debt and interest under the bylaw;

(*c*) The total value of the land exclusive of improvements charged with the special assessment and if any portion of the debt is to be borne by the municipality at large the value of the whole ratable property according to the last revised assessment roll;

(*d*) The annual special rate per foot frontage for the paying of the interest and creating a yearly sinking fund for the payment of the debt or portion thereof not payable by the municipality at large as the case may be or for discharging the instalments of such principal and interest in case the debt is to be so payable and if any portion of the debt is to be borne by the municipality at large the annual special rate in the dollar for the payment of the portion of the debt chargeable to the municipality at large or for discharging the instalments of such principal and interest as the case may be;

(*e*) That the debt is contracted on the credit and security of the municipality at large but as to so much as is not to be paid by the municipality at large the municipality is to collect the same only by way of special frontage tax as aforesaid. C. O. 70, s. 241.

Assent of electors

**242.** No bylaw passed hereunder shall require the assent of the electors:

Provided however that if the council in any case of local improvement provides that more than one-third of the total cost of the improvements shall be paid by the municipality at large and such sum shall be greater than can be properly paid out of the current revenue of the year during which the improvement is made then and in every such case the council shall pass a separate bylaw for the portion of money to be provided by the municipality at large and said bylaw shall before being finally passed received the assent of the electors in the manner hereinbefore provided. C. O. 70, s. 242.

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# PART VII.

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## EXECUTIONS AGAINST MUNICIPALITIES.

Procedure on writs of execution in sheriff's hands

**243.** Any writ of execution against a municipality may be indorsed with the direction to the sheriff of the judicial district in which the municipality is, to levy the amount thereof by rate and the proceedings thereon shall be as follows:

Copy writ to be delivered secretary treasurer

Demands for payment

1. The sheriff shall deliver a copy of the writ and indorsement to the secretary treasurer of the municipality with a statement in writing of the amount required to satisfy such execution including the amount of interest thereon and sheriff's fees and demand the payment of the same;

Execution rate

2. In case the amount demanded is not paid to the sheriff within thirty days after such delivery the sheriff shall examine the assessment roll of the municipality and shall in like manner as rates are struck for general municipal purposes strike a rate sufficient in the dollar to cover the amount claimed as aforesaid with such addition to the same as the sheriff deems sufficient to cover the interest, his own fees and the collector's percentage up to the time when such rate will probably be available;

Sheriff's precept to secretary treasurer

3. The sheriff shall thereupon issue a precept or precepts under his hand and seal of office directed to the secretary treasurer of the municipality and shall annex thereto the roll of such rate and shall by such precept after reciting the writ and that the corporation had neglected to satisfy the same and referring to the roll annexed to the precept command the secretary treasurer to levy such rate at the time and in the manner by law required in respect to the general annual rates;

Levy of special rate

4. At the time for levying the annual rates next after the receipt of such precept the secretary treasurer shall add a column to the tax roll headed: "Execution rate in *A.B.* versus the municipality of——as the case may be" adding a similar column if there are more executions than one and shall insert

therein the amount by such precept or precepts to be levied upon each person respectively and shall levy the amount of such execution rate aforesaid and shall within the time that he is required to make the returns of the general annual rate return to the sheriff the precept or precepts with the amount levied thereon deducting his percentage;

Surplus

5. The sheriff shall after satisfying the execution and all fees thereon return any surplus within ten days after receiving the same to the secretary treasurer for the general purposes of the municipality;

Secretary treasurer's percentage

6. In case the secretary treasurer of any municipality against which an execution has issued is not paid by percentage fixed by bylaw of the municipality he shall be paid for such collections a sum not exceeding two and one-half per centum. C. O. 70, s. 243.

Secretary treasurer and assessor officers of court

**244.** The secretary treasurer and assessor of the corporation shall for the purposes of carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such execution be deemed to be officers of the court from which such writ issued and as such may be proceeded against by attachment, mandamus or otherwise to compel them to perform the duties hereby imposed on them. C. O. 70, s. 244.

### EXPROPRIATION OF LANDS.

Expropriation of lands

**245.** The council of every municipality shall make to the owners or occupiers of or other person interested in lands entered upon, taken or used by the corporation in the exercise of its powers due compensation for any damages (including cost of fencing when required) necessarily resulting from the exercise of such powers beyond any advantage which the claimant may derive from the contemplated work and any claim for such compensation if not mutually agreed upon shall be determined by arbitration under this Ordinance. C. O. 70, s. 245.

Corporations or guardians, etc., may act

**246.** In the case of real property which a council has authority under this Ordinance to enter upon, take or use without the owner's consent, corporations, tenants in tail or for life, guardians, committees and trustees shall on behalf of themselves, their successors and heirs respectively and on behalf of those they represent whether infants unborn, lunatics, idiots, married women or others have power to act as well in reference to any arbitration, notice and action under this Ordinance as in contracting for and conveying to the council any such lands or in agreeing as to the amount of damages arising from the exercise by the council of any power in respect thereof. C. O. 70, s. 246.

Appointment of representative where no person to act

**247.** In case there be no such person who can so act in respect of such lands or in case any person interested in respect to any such lands is absent from the Territories or is unknown or in case his residence is unknown or he himself cannot be found a judge may on application of the council appoint a person to act in respect to the same for all or any of the said purposes. C. O. 70, s. 247.

Payment of amount awarded and interest

**248.** In case any person acting as aforesaid has not the absolute estate in the property the council shall pay to him legal interest on the amount to be paid in respect of such property and shall retain the principal to be paid to the person entitled to it whenever he claims the same and executes a valid acquittance therefor unless a judge in the meantime directs the council to pay the same to any person or into court; and the council shall not be bound to see to the application of any interest so paid or of any sum paid under the direction of such court. C. O. 70, s. 248.

Sums awarded subject to incumbrance as land

**249.** All sums agreed upon or awarded in respect of such real property shall be subject to the limitations and charges to which the property was subject. C. O. 70, s. 249.

Council may make tender of damages

**250.** The council of any municipality in all cases where claims for compensation or damages are made against them which under the provisions of this Ordinance are declared to be the subject of arbitration in the event of the parties not being able to agree, may cause such amount to be tendered to the person making such claim as they may consider proper compensation for the damage sustained or lands taken and in the event of the nonacceptance by the claimant or claimants of the amount so tendered and the arbitration being proceeded with and if an award is obtained for an amount not greater than the amount so tendered the costs of the arbitration and award shall unless otherwise directed by the arbitrator be awarded to the corporation and set off against any amount which shall have been awarded against them. C. O. 70, s. 250.

Disputes to be settled by arbitration

**251.** In any case where a dispute arises between two municipalities or between a person and a municipality involving a claim for the payment of money or damages or between two or more parties for the surplus money in the hands of a municipality in cases where property distrained for the payment of taxes has been sold for more than the amount of taxes and costs either party to the dispute may require that the same be settled by arbitration. C. O. 70, s. 251.

Appointment of arbitrators

**252.** In cases where arbitration is authorised either party may appoint an arbitrator and give notice thereof in writing to the other party calling upon him to appoint an arbitrator on his behalf and a notice to a municipality shall be given to the mayor or reeve thereof. C. O. 70, s. 252.

Appointment in writing or by bylaw

**253.** The appointment of all arbitrators shall be in writing under the hands of the appointers or in case of a municipality by a bylaw of the council and the two arbitrators appointed by or for the parties shall within seven days from the date of the appointment of the last named arbitrator appoint in writing a third. C. O. 70, s. 253.

Each party interested may appoint arbitrator

**254.** Where more than two parties are interested each of them shall appoint an arbitrator and if there be an even number of arbitrators the arbitrators so appointed shall appoint another arbitrator or in default at the expiration of twenty-one days after the last of such arbitrators has been appointed the Lieutenant Governor in Council may on application of any one of the parties interested appoint such arbitrators. C. O. 70, s. 254.

Omission or neglect to appoint, Lieutenant Governor may appoint

**255.** In case of neglect or refusal of any party to appoint an arbitrator when notified to do so or in case of two parties appointed and being unable to agree upon a third the Lieutenant Governor in Council shall upon application of any one of the parties interested in such arbitration appoint a party or parties to act for and on behalf of the party so refusing or a third arbitrator as the case may be. C. O. 70, s. 255.

Appointment of arbitrator for municipality

After appointment by adverse party

**256.** In case of an arbitration between a municipality and the owners or occupiers of or other persons interested in real property entered upon, taken or used by the municipality in the exercise of any of its powers or injuriously affected thereby if after the passing of the bylaw any person interested in the property appoints and gives due notice to the mayor or reeve of the municipality of his appointment of an arbitrator to determine the compensation to which such person is entitled the mayor or reeve shall if authorised by bylaw within seven days appoint a second arbitrator and give notice thereof to the other party and shall express clearly in the notice what powers the council intends to exercise with respect to the property describing it. C. O. 70, s. 256.

Council may name arbitrator

Other party then to appoint one

**257.** In such last mentioned arbitration if, after service upon the owner or occupier of or person so interested in the property of a certified copy of the bylaw, the owner or occupier or person so interested omits for twenty-one days to name an arbitrator and give notice thereof as aforesaid the council or the mayor or reeve if authorised by bylaw may name an arbitrator on behalf of the council and give notice thereof to the owner, occupier or a person so interested and the latter shall within seven days thereafter name an arbitrator on his behalf. C. O. 70, s. 257.

Meeting of arbitrators

**258.** Within ten days after the appointment of the third arbitrator the arbitrators appointed shall meet to hear and determine the matter referred to them. C. O. 70, s. 258.

Award to be made within a month

**259.** In any of the cases hereinbefore provided the arbitrators shall make their award within one month after the appointment of the third arbitrator. C. O. 70, s. 259.

No municipal officer can be arbitrator

**260.** No member, officer or person in the employment of any municipality interested in any arbitration shall be appointed to act as such arbitrator. C. O. 70, s. 260.

Oath

**261.** Every arbitrator before proceeding to try the matter of the arbitration shall take and subscribe the following oath before any justice of the peace or notary public:

I, *A.B.*, do swear that I will well and truly try the matters referred to me by the parties and a true and impartial award make in the premises according to the evidence to the best of my skill and knowledge. So help me God. C. O. 70, s. 261.

Evidence on oath

**262.** All evidence taken by any court of arbitration under this Ordinance shall be taken on oath; any arbitrator is hereby empowered to administer the same. C. O. 70, s. 262.

Award by majority

**263.** A majority of the arbitrators so appointed shall make the award and a copy thereof shall be furnished to each of the parties interested in the matter referred to arbitration. C. O. 70, s. 263.

Arbitrators' fees

**264.** The arbitrators shall have power to award the payment of a fixed sum by any of the parties to the other for the costs of the arbitration or of any portion thereof including fees for their own services as follows:

| | |
|---|---|
| For every meeting where the cause is not proceeded with but an enlargement or postponement is made at the request of any party, to each arbitrator not exceeding | $ 2 00 |
| For every day's sitting to consist of not less than six hours, to each arbitrator not exceeding | 10 00 |
| For every sitting not extending to six hours (fractional parts of hours being excluded) where the arbitration is actually proceeded with, for each hour occupied in such proceedings to each arbitrator not exceeding | 2 00 |

C. O. 70, s. 264.

Notes of evidence. Documents

**265.** Full notes of the evidence taken by arbitrators under this Ordinance shall be made and together with any documents submitted in proof of any allegations made on behalf of parties interested shall be retained by the chairman of the arbitration or until an order is issued by a judge to produce the same in case of an appeal from the decision of the arbitrators. C. O. 70, s. 265.

Award to be in writing

Appeal

**266.** Every award under this Ordinance shall be in writing and under the hands of all or a majority of the arbitrators and shall be subject only to an appeal to the supreme court. C. O. 70, s. 266.

Powers of court

**267.** An award made by arbitrators under this Ordinance may be referred back by the supreme court for amendment or for additional evidence or may be set aside on questions of law but not on questions of fact. C. O. 70, s. 267.

### APPLICATIONS TO QUASH BYLAWS.

Quashing bylaws, orders and resolutions

**268.** In case a resident of a municipality or any other person interested in a bylaw, order or resolution of the council thereof applies to a judge and produces a certified copy of the bylaw, order or resolution and shows by affidavit that the same was received from the secretary treasurer and that the applicant is resident or interested as aforesaid the judge after at least ten days from service on the municipality of a rule to show cause in this behalf may quash the bylaw, order or resolution in whole or in part for illegality and according to the result of the application award costs for or against the municipality. C. O. 70, s. 268.

Application within two months

**269.** No application to quash or annul any such bylaw, order or resolution in whole or in part shall be entertained by any judge unless such application is made within two months from the final passing of such bylaw, order or resolution. C. O. 70, s. 269.

Passage procured by corrupt practices

**270.** Any bylaw the passage of which has been procured through or by means of any corrupt practices as defined by this Ordinance shall be liable to be quashed upon any application to be made in conformity with the provisions hereinbefore contained. C. O. 70, s. 270.

Judge may order inquiry

Proceedings on inquiry

Subsequent proceedings

Costs

**271.** Before determining any application for the quashing of a bylaw upon the ground that the passing of the same has been procured by means of any corrupt practices as defined by this Ordinance and if it is made to appear to a judge that probable grounds exist for a motion to quash such bylaw the judge may thereupon make an order for an inquiry to be held upon such notice to the parties affected as the judge may direct concerning the said grounds, before himself or whom he may appoint to conduct such inquiry, and require that upon such inquiry all witnesses both against and in support of such bylaw be orally examined and crossexamined upon oath; and the said judge upon the taking or return of said evidence as the case may be may upon notice to such of the parties concerned as he thinks proper proceed to hear and determine the question and if the grounds therefor appear to him to be satisfactorily established he may make an order for quashing said bylaw and order the costs attending such proceedings to be paid by the parties or any one of them who have supported said bylaw; and if it appears that the application to quash said bylaw ought to be dismissed the said judge may so order and in his discretion award costs to be paid by the persons applying to quash said bylaw. C. O. 70, s. 271.

Proceedings on bylaw stayed

**272.** After an order has been made by a judge directing an inquiry and after a copy of such order has been left with the secretary treasurer of the municipality of which the bylaw is in question, all further proceedings upon the bylaw shall be stayed until after the disposal of the application in respect of which the inquiry has been directed; but if the matter is not prosecuted to the satisfaction of the judge he may remove the stay of proceedings. C. O. 70, s. 272.

Limitation and notice of action on illegal bylaw

**273.** In case a bylaw, order or resolution is illegal in whole or in part and in case anything has been done under it which by reason of such illegality gives any person a right of action no such action shall be brought until one month has elapsed after the bylaw, order or resolution has been quashed or repealed nor until one month's notice in writing of the intention to bring action has been given to the municipality and every such action shall be brought against the municipality alone and not against any person acting under the bylaw, order or resolution. C. O. 70, s. 273.

**274.** In case the municipality tenders amends to the plaintiff or his advocate, if such tender is pleaded and (if traversed) proved and if no more than the amount tendered is recovered the plaintiff shall have no costs but costs shall be taxed to the defendant and set off against the verdict and the balance due to either party shall be recovered as in ordinary cases. C. O. 70, s. 274.

**Tender of amends**

**Costs**

**275.** No bylaw shall be set aside for corrupt practices provided the passage thereof was not effected by such corrupt practices. C. O. 70, s. 275.

**Setting aside for corrupt practices**

## OATHS OF OFFICE AND QUALIFICATION.

**276.** Every person elected or appointed under this Ordinance to any office requiring a qualification of property shall before he takes the oath of office or enters on his duties make and subscribe an oath to the following effect:

**Oaths and declarations of property qualifications**

I, do swear that I am a British subject; that I had at the time of my election or appointment to the office of in the municipality of (*as the case may be*) and still have in my own right such an estate as does qualify me to act in the said office and that such estate is (*naming the nature of it*) and is of the value of dollars over and above all charges, liens and incumbrances affecting the same.

(*Signature.*) *A. B.*

C. O. 70, s. 276.

**277.** Every member of the council, secretary treasurer, assessor and constable shall before entering on the duties of his office, make and subscribe an oath to the following effect:

**Oath of office**

I, , do swear that I will truly, faithfully and impartially to the best of my knowledge and ability execute the office of to which I have been elected or appointed (*as the case may be*) in the municipality of and that I have not received and will not receive any payment or reward or promise of such for the exercise of any partiality or neglect or undue execution of the said office and that I have not myself or on behalf of any other person either directly or indirectly any interest in any contract with or on behalf of the said municipality. C. O. 70, s. 277.

Oath of auditors

**278.** Every auditor before acting as such shall take the following oath:

I, , having been appointed auditor for the municipality of do swear that I will faithfully perform the duties of such office according to the best of my judgment and ability and that I had not either directly or indirectly any share or interest whatever in any contract with, by or on behalf of such municipality during the year preceding my appointment (except as auditor, *if such be the case*) and that I have not any contract with the said municipality except that of auditor for the present year. C. O. 70, s. 278.

Oath of office how to be taken

**279.** Every member of the council and the subordinate officers of the municipality shall take the oaths of office and qualification before some justice of the peace or notary public not being a member of the council and the justice of the peace or notary public shall give the necessary certificate of the same having been duly made and subscribed. C. O. 70, s. 279.

### PENAL CLAUSES.

Penalties

**280.** If the secretary treasurer fails to furnish ballot boxes in manner herein provided he shall incur a penalty of $100 for every ballot box which he has failed to furnish in the manner prescribed. C. O. 70, s. 280.

**281.** Any person who:

(*a*) Without due authority supplies any ballot paper to any person; or

(*b*) Fraudulently puts into the ballot box any paper other than a ballot paper which he is authorised to put in; or

(*c*) Fraudulently takes out of the polling place any ballot paper; or

(*d*) Without due authority destroys, takes, opens or otherwise interferes with any ballot box or packet of ballots then in use for the purpose of the election;

shall be guilty of an offence and on summary conviction thereof be liable to a fine not exceeding $200 and costs of prosecution. C. O. 70, s. 281.

**282.** Any deputy returning officer, poll clerk, candidate or agent who interferes or attempts to interfere with any voter in marking his ballot or who marks or causes to be marked a ballot paper so as to defeat the intentions of the voter or who at any time communicates any information he may be possessed of as to the candidate or candidates for whom any vote has been given or who induces any person to display his ballot paper so as to make known to himself or to any other person the manner in which he has voted or for or against whom he has marked his ballot paper shall on conviction thereof in a summary way before two justices of the peace be liable to a fine not exceeding $400 and costs of prosecution or imprisonment not exceeding one year or both. C. O. 70, s. 282.

Offences at elections

**283.** If any officer of the municipality refuses or neglects to perform any duty required of him by this Ordinance he shall on conviction thereof be fined in a sum not exceeding $100. C. O. 70, s. 283.

Neglect of duty

**284.** Every fine and penalty imposed by or under the authority of this Ordinance may, unless where other provision is specially made therefor, be recovered and enforced with costs of prosecution on summary conviction before any justice of the peace for the North-West Territories notwithstanding such justice may be a member of the council or a ratepayer in the municipality interested in such prosecution; and all such fines and penalties when recovered shall form part of the general fund of the municipality wherein the same is imposed. C. O. 70, s. 284.

Penalties, how to be recovered

INFRACTION OF BYLAWS. PENALTIES.

**285.** The council of every municipality may pass bylaws for inflicting reasonable fines and penalties not exceeding $100 exclusive of costs for breach of any of the bylaws of the municipality and for inflicting reasonable punishment by imprisonment * * * either in the lockup house of the municipality or in the nearest common gaol for any period not exceeding thirty days in case of nonpayment of the fine and costs inflicted for any such breach unless such fine and costs including the costs of committal are sooner paid; except for breach of any bylaw or bylaws passed for the suppression of houses of ill-fame for which the imprisonment may be for any period not exceeding six months in case of the nonpayment of the fines and costs unless such fines and costs including costs of committal are sooner paid. C. O. 70, s. 285, and 1900, c. 23, s. 5.

Bylaws providing penalties for offences

## ACTIONS AGAINST MUNICIPALITIES.

Actions against municipalities

**286.** In case an action is brought against a municipal corporation to recover damages sustained by reason of any obstruction, excavation or opening in the public highway, street or bridge placed, made, left or maintained by any corporation or by any person other than a servant or agent of the municipal corporation the last mentioned corporation shall have a remedy over against the other corporation or person for, and may enforce payment accordingly of the damages and costs with any which the plaintiff in the action may recover against the municipal corporation:

Remedy over

Provided nevertheless that the municipal corporation shall only be entitled to the said remedy over if the other corporation or person shall be made a party to the action and if it shall be established in the action as against the other corporation or person that the damages were sustained by reason of an obstruction, excavation or opening as aforesaid, placed, made, left or maintained by the other corporation or person; and the municipal corporation may in such action have the other corporation or person added as a party defendant or third party for the purposes hereof, if the same is not already a defendant in the action jointly with the municipal corporation, and the other corporation or person may defend such action as well as the plaintiff's claim as against the claim of the municipal corporation to a remedy over; and the court or judge upon the trial of the action may order costs to be paid by or to any of the parties thereto or in respect of any claim set up therein as in other cases. C. O. 70, s. 286.

Tender or payment into court

**287.** The council of any municipality upon any claim being made or action brought for damages for alleged negligence on the part of the municipality may tender or pay into court, as the case may be, such amount as they may consider proper compensation for the damages sustained and in the event of the nonacceptance by the claimant of such tender or the amount paid into court and the action being proceeded with and a verdict being obtained for no greater amount than the amount so tendered or paid into court the cost of suits shall be awarded to the defendants and set off against any verdict which shall have been awarded against them. C. O. 70, s. 287.

## SCHEDULE.

### FORM A.

### NOTICE FOR NOMINATION AT ELECTIONS.

### NOTICE.

Municipality of

Public notice is hereby given that a meeting of the electors of the municipality aforesaid will be held at (*description of place*) on (*day of week*) the day of 1 , from ten of the clock until noon of the said day for the purpose of nominating candidates for the offices of mayor (*or* reeve) and councillors for the said municipality for the next ensuing year.

Dated under my hand at this day of 1 .

*G.H.*,
*Returning Officer.*

C. O. 70.

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### FORM B.

### POLLING NOTICE AT ELECTIONS.

### NOTICE.

Municipality of

Public notice is hereby given to the electors of the municipality aforesaid that a poll has been granted for the election now pending for the said municipality and that such poll will be open on (*here insert same day of the week as for nomination of the next following week*) the day of 1 , from the hour of nine of the clock in the morning till five of the clock in the afternoon at (*describe the polling station or as the case may be*) in each of the following polling divisions that is to say:

For the polling division No. 1 (*or other designation*) consisting of (*or* bounded as follows *or otherwise describing it clearly*) at (*describing the polling station and so continuing for all the other polling divisions and stations in the municipality*).

And that I will at (*describe the place*) on (*day of the week*), the day of 1 , at o'clock in the noon sum up the votes and declare the result of the election.

Given under my hand at this day of 1 .

*G.H.*,
*Returning Officer.*

C. O. 70.

## FORM C.

### BALLOT PAPER.

Election of the Council for the Municipality of Ward No. (*if for a Ward*), Polling Division No. (*if divided into polling divisions*) . day of 1 .

| FOR COUNCILLORS. | | | | | | | FOR MAYOR (OR REEVE). | | |
|---|---|---|---|---|---|---|---|---|---|
| Swinford. | Richardson. | Perley. | Hamilton. | Campbell. | Brown. | Adam. | Smith. | Jones. | Bull. |

*N.B.—This form to be adapted to circumstances.*

C. O. 70.

## FORM D.

### Direction for Guidance of Voters.

The voter will go into one of the apartments provided and with a pencil make a cross opposite the name or names on the right hand side of the ballot-paper of the party or parties for whom he wishes to vote, thus ×

If the voter votes for more candidates than he is by law entitled to vote for his ballot paper will be void unless he discovers the fact before the same is deposited in the ballot box when he can obtain a new one from the returning officer.

If the voter inadvertently spoils a ballot paper he can obtain a new one on satisfying the returning officer of the fact.

If the voter places any mark on the ballot paper by which he will be afterwards identified his ballot paper will be void.

The voter after he has made the cross × opposite the name or the names of the party or parties for whom he wishes to vote shall fold up his ballot paper so as to show the initials of the deputy returning officer on the back thereof but so as to conceal the manner in which he has voted and shall deliver the same to the deputy returning officer and shall forthwith quit the polling place. C. O. 70.

## FORM E.

### VOTERS' LIST.

| Column for mark indicating the voter has voted. | Names of voters in alphabetical order. | Short description of property qualification. | Whether O. H. or T. | Objections. | Sworn. | Refusal to swear | Remarks. |
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C. O. 70.

## FORM F.

Assessment Roll for year 1 . Municipality of

| No. of Assessment. | The names in full if the same can be ascertained, of all taxable persons who have taxable property or income within the Municipality and the name of the owner when the occupant in not the owner. | Post office address. | Ow. (owner), Occ. (occupant), Inc. (income). | The description in full and extent or amount of property against each taxable person or any interest which is liable to assessment, showing section, township and range, or lot and block, or other local description. | The actual cash value of each parcel or lot of real property or the interest therein of the taxable person. | Total value of improvements thereon. | Cash value of personal property. | Taxable income | Total assessment of real and personal property and income. | Age of taxable person. | Number of acres assessed. | Number under cultivation. | Religion. | Total number in family. | Cattle. | Sheep. | Horses. | Hogs. | Dogs. | Date of assessment. | Value of property exempt from taxation. | Date of delivery or posting of notice. |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | | | | | | | | | | | | | |

## FORM G.

### Transfer of Land on Sale for Taxes.

I, of the in the North-West Territories, secretary treasurer of the municipality of by virtue of the authority vested in me by *The Municipal Ordinance* to sell lands for arrears of taxes do hereby in consideration of the sum of dollars paid to me by of being the price for which the said land was sold at a sale by me on the day of 1 , for arrears of taxes due on said land to the said municipality, transfer to the said ALL THAT piece of land being

In witness whereof I have hereunto set my hand and the seal of the said municipality this day of 1 .

Signed by the above named }
in presence of }

*Affidavit of witness to be indorsed on transfer.*

CANADA } I
North-West Territories. } of (*residence*)
To wit: } in the North-West Territories,
(*occupation*) make oath and say:

1. I was personally present and did see named in the within instrument who is personally known to me to be the person named therein, he being the secretary treasurer of the municipality of duly sign and execute the within instrument for the purposes named therein;

2. That the said instrument was executed at in the said Territories; and that I am the subscribing witness thereto;

3. That I personally know the said and he is in my belief of the full age of twenty-one years.

Sworn before me at }
in the North-West Territories }
this day of }
1

C. O. 70.

# MUNICIPAL.

## AMENDMENT.

### An Ordinance to amend Chapter 70 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting Municipalities."

1899 c. 15
29th April 1899

[*Assented to April 29, 1899.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** Section 114 of *The Municipal Ordinance* is hereby amended by adding thereto the following subsection: Section 114 amended

(2) * * * * * * * * * * * *

**2.** Section 121 of the said Ordinance is hereby amended by adding thereto the following clause:

17. * * * * * * * * * * * * *

**3.** The council of a rural municipality any portion of which consists of a registered townsite may for the purpose of making improvements for the benefit of such townsite pass bylaws within the powers of the municipality for contracting debts by borrowing money or otherwise and providing for the payment of such debts after the financial year in which such bylaw is passed but not more than twenty years after the bylaw takes effect, by rates to be levied upon the ratable property within such townsite (not theretofore exempted by the municipality from general taxation) but such debts shall not exceed ten per cent. of the assessed value of the ratable property within such townsite less the amount of any existing indebtedness of the municipality which according to the proportion which the ratable property in the townsite bears to the ratable property in the municipality (both according to the last revised assessment roll) would be leviable upon the ratable property in such townsite. 1899, c. 15, s. 3. Taxation of townsite in rural municipality for local improvements

**4.** Bylaws under the next preceding section shall before the final passing thereof receive the assent of two-thirds of the duly qualified ratepayers voting thereon in the manner hereinafter mentioned. 1899, c. 15, s. 4. Assent to bylaws

Contents of bylaw

**5.** The bylaw shall recite:

1. The amount of the debt which the bylaw is intended to create and, in general terms, the objects for which it is to be created;
2. The time or times for repayment (whether by instalments or otherwise);
3. (*a*) The amount of the whole ratable property in the municipality according to the last revised assessment roll;

   (*b*) The amount of the whole ratable property, according to the last revised assessment roll, in the portion of the municipality to be affected by such bylaw;
4. (*a*) The total amount of the existing debt of the municipality outside of the debt due for the current expenses of the year;

   (*b*) The total amount of any existing debt payable by rates limited to such townsite.

Date of effect of bylaw

Date of obligations

(2) The bylaw shall state a day not more than three months from the day on which the voting is to take place when the bylaw shall take effect, and the whole of the obligations to be issued for the debt authorised shall be dated as of the day on which the bylaw takes effect. 1899, c. 15, s. 5.

Provisions to be followed

**6.** The provisions of sections 219, 220, 221, 222, 223, 224, 225, 227, 228, 229 and 230 of *The Municipal Ordinance* shall apply to any such bylaw and to the voting thereon except that for the purposes of such vote the word "municipality" shall be deemed to be struck out of section 227 and the words "the portion of the municipality of consisting of (*describing the portion in question*)" substituted and the figures "$400" shall be deemed to be struck out and "$100" substituted. 1899, c. 15, s. 6.

Persons entitled to vote

**7.** There shall be entitled to vote on any such bylaw every ratepayer being a man, unmarried woman or widow who at the time of tendering the vote is of the full age of twenty-one years and is named on the last voters' list of the municipality and who has neither directly or indirectly received nor is in expectation of receiving any reward or gift for the vote which he tenders and who is at the time of the tender a freeholder in his own right or whose wife is a freeholder of real property within the portion of the municipality composing such townsite and is rated on the last revised assessment roll as such freeholder for not less than $100. 1899, c. 15, s. 7.

**8.** In the event of judgment being obtained against the municipality for the principal or interest due on any debenture issued under any such bylaw and execution issued thereon, the rate to be levied to pay such execution shall be limited to the ratable property in such townsite. 1899, c. 15, s. 8. Execution rate limited

**9.** No exemption from any rate for payment of such debenture shall be granted for more than one year except by the vote of the ratepayers in the portion of the municipality affected thereby. 1899, c. 15, s. 9. Exemption how granted

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# MUNICIPAL.

## AMENDMENT.

## An Ordinance to legalise certain Municipal Grants for Patriotic Purposes.

1900, c. 24
4 May, 1900

[*Assented to May 4, 1900.*]

WHEREAS the councils of certain municipalities in the Territories have at different times within the past year made grants of money to or in aid or for the benefit of Canadian troops departing for service in her Majesty's war in South Africa or their families or otherwise in connection with the said war; Preamble

And whereas doubts have arisen as to the power of the said councils to make such grants and the legality thereof;

And whereas it is advisable to set such doubts at rest:

Therefore the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** All grants of money heretofore or hereafter made by the council of any municipality in the Territories for any loyal and patriotic purpose in connection with the war now being waged by her Majesty in South Africa are hereby confirmed and declared to be valid and binding and within the powers of the said council. 1900, c. 24, s. 1. Certain patriotic grants confirmed

# MUNICIPAL.

AMENDMENT.

1901, c. 23
12 June, 1901

## An Ordinance to amend Chapter 70 of The Consolidated Ordinances 1898, intitutled "An Ordinance respecting Municipalities."

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** to **9.** * * * * * * * * * * *

Section 230 repealed

**10.** Section 230 of the said Ordinance is hereby repealed; and no bylaw referred to in the said section heretofore passed shall require the assent of the Lieutenant Governor in Council if such assent has not already been given. 1901, c. 23, s. 10.

### ERECTION OF VILLAGES INTO TOWNS.

Census may be taken

**11.** A census of any village may at any time be taken under the authority of a resolution of the ratepayers passed at the annual village meeting or at any other meeting of the ratepayers specially called for that purpose. 1901, c. 23, s. 11.

Necessary population for incorporation as town

**12.** In case it appears by the census return taken under such bylaw or any statute that a village contains over four hundred inhabitants the village may be erected into a town municipality subject to the provisions hereinafter contained. 1901, c. 23, s. 12.

Resolution of village

**13.** No village shall be erected into a town municipality unless and until a resolution has been approved by two-thirds of the ratepayers voting thereon at a meeting specially called for the purpose.

(2) The said resolution shall state limits of the proposed town which may include additional lands adjacent to the village.

(3) *The voting on the said resolution shall be held in the same manner as the voting for election of overseer.* 1901, c. 23, s. 13, and 1903, Sess. 1, c. 19, s. 9.

**Notice to be posted**

**14.** The overseer of the village shall upon the passing of such resolution post up a notice in five public places in the village and insert the same in two consecutive issues of the official gazette and in four consecutive weekly issues of a newspaper published in or nearest to the village setting forth in the notice the intention of the overseer to apply on behalf of the village to the Lieutenant Governor for the erection of the village into a town municipality and stating the limits intended to be included therein. 1901, c. 23, s. 14.

**Proclamation erecting village into a town**

**15.** At any time not less than one month nor more than two months after the last publication of the said notice the overseer may apply to the Lieutenant Governor for the erection of the village into a town municipality and shall with the application furnish satisfactory proof of the census, resolution and publication and posting of notice aforesaid and thereupon the Lieutenant Governor may by proclamation erect the village into a town municipality by a name to be given thereto in the proclamation. 1901, c. 23, s. 15.

**Lands not included in village may be added**

**16.** The Lieutenant Governor may include in the new town any lands not included in the village but adjacent thereto and within the limits mentioned in the aforesaid notice. 1901, c. 23, s. 16.

**Municipal Ordinance to apply**

**17.** From and after the erection of any village into a town municipality as hereinbefore provided all of the provisions of the said Ordinance applying to town municipalities shall apply thereto. 1901, c. 23, s. 17.

**First election**

**18.** *The Lieutenant Governor may in his proclamation hereinbefore mentioned appoint a returning officer to hold the first election of mayor and councillors for the town municipality.*

(2) *The persons eligible for election as mayor and councillors shall be all male British subjects of the full age of twenty-one years, able to read and write, resident within or within two miles of the limits of the municipality, the owner at the time of the election of freehold real estate within the municipality of the value of at least $500, or leasehold real estate within the municipality of the value of at least $1,500 over and above all charges, liens and incumbrances affecting the same.*

(3) *The persons qualified to nominate candidates for the office of mayor or councillors shall be the persons qualified to vote for such candidates.*

(4) *The term of office of the mayor elected at the first election shall if such election be prior to the first day of July be till the end of the then calendar year and if such election be not prior to the first day of July till the end of the then next ensuing calendar year.*

(5) *The three candidates first nominated for councillors in the event of there being no poll or the three candidates receiving the highest number of votes in the event of a poll being held shall be declared elected for the term ending at the end of the calendar year next following or next but one following the date of the election according as such election is held prior or not prior to the first day of July and the remaining three candidates elected shall be declared elected for the term ending with the then calendar year or the then next following calendar year according as such election is held prior or not prior to the first day of July.*

(6) *In the event of an election being held after the first election but before the preparation and revision of an assessment roll the provisions of this Ordinance as to the first election including the qualification of voters and candidates shall apply.* 1903, Sess. 2, c. 22, s. 2. (Note also sections 3 and 4 of same Ordinance.)

Qualification of voters

**19.** The persons qualified to vote at the first election of mayor and councillors shall be all owners or occupants of land within the limits of the town municipality of the full age of twenty-one years who have owned or occupied such land for a period of at least three months prior to such election but before being allowed to vote each voter shall make and subscribe before the returning officer a declaration in the form A in the schedule hereto. 1901, c. 23. s. 19.

Penalty for false declaration

**20.** Any person signing a declaration mentioned in the next preceding section containing a false statement shall be guilty of an offence and liable on summary conviction to a fine not exceeding $50 and costs. 1901, c. 23, s. 20.

Returning officer to be secretary treasurer

**21.** The returning officer shall be the secretary treasurer for the said town municipality and shall hold office until his successor is appointed by the council. 1901, c. 23, s. 21.

Overseer to deliver property to secretary treasurer

**22.** All books, accounts, records, lists, vouchers, moneys and all other property of the village together with the auditor's report required by *The Village Ordinance* shall forthwith on demand of the secretary treasurer be delivered by the person last holding office as overseer of the said village to the said secretary treasurer who shall for the purpose of receiving the said books, accounts, records, vouchers, moneys and other property be deemed to be the successor in office of such overseer. 1901, c. 23, s. 22.

Certain provisions of Village Ordinance to be bylaws

**23.** All provisions of *The Village Ordinance* and amendments respecting the prevention of disease and fire, billiard and dog licenses, licensing travelling showmen and entertainers, hawkers and pedlers and animals running at large and all regulations made thereunder having force and effect in the village at the date of its erection into the town municipality, all provisions for the collection of such license fees and all penalties for the infraction of any of the said provisions or regulations shall continue in full force in the town municipality as bylaws of the said town municipality until amended or repealed by bylaws passed by the council. 1901, c. 23, s. 23.

Village taxes to be paid to town

**24.** All taxes due to the village shall on its erection into a town municipality be deemed to be arrears of taxes due to such municipality and the provisions of the said Ordinance relating to arrears of taxes and the collection thereof shall apply thereto. 1901, c. 23, s. 24.

Suits and rights of action and liabilities continued

**25.** All suits and rights of action by or against the village shall after its erection into the town municipality be continued or maintainable by or against the town municipality and all debts and liabilities of the village be assumed and paid by the municipality. 1901, c. 23, s. 26.

Title to property of village to pass to town

**26.** The title to and all rights in respect of any real estate or other property of the village shall be vested in the town municipality upon the erection of the village into a town municipality 1901, c. 23, s. 26.

Ordinance to be read with Municipal Ordinance
Short title

**27.** This Ordinance shall be read with and form part of *The Municipal Ordinance* and may be cited as *The Municipal Amendment Ordinance 1901.* 1901, c. 23, s. 27.

## SCHEDULE.

### FORM A.

I, *A.B.*, hereby declare that I am of the full age of twenty-one years and have owned or occupied land situate within the limits of the town of              for a period ot at least three months immediately prior to the date of this election.

........................
*Voter.*

........................
*Returning Officer.*

1901, c. 23.

# MUNICIPAL.

### AMENDMENT.

1903, c. 18
25 April 1903

An Ordinance to amend Chapter 70 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting Municipalities."

[*Assented to April 25, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** Section 121 of *The Municipal Ordinance* is hereby amended:

1. By repealing clause 1 thereof and substituting therefor the following:

1. * * * * * * * * * * * * *

2. By repealing clause 3 thereof and substituting therefor the following:

3. * * * * * * * * * * * * *

3. By striking out the figures "600" where they occur in clause 13 thereof and substituting therefor the figures "1000."

**2.** This Ordinance shall apply to assessments for the year 1903.

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# MUNICIPAL.

### AMENDMENT.

1903, Sess. 2,
c. 22, 21 Nov.,
1903

An Ordinance to amend Chapter 70 of The Consolidated Ordinances 1898, intituled "An Ordinance respecting Municipalities."

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** and **2.** * * * * * * * * * * * * * *

**3.** All elections of mayor and councillors since the first day of January, 1903, in towns incorporated under the provisions of the said *The Municipal Amendment Ordinance 1901* are hereby confirmed and declared to be and to have been at their date legal and valid and the terms of office of such mayor and councillors are declared to be those fixed by this Ordinance for first elections. 1903, Sess. 2, c. 22, s. 3. Elections under c. 23 of 1901 confirmed

**4.** Any municipality which has a municipal system of waterworks shall have power and authority to supply with water any person or corporation outside the municipality and may exercise all power necessary to the carrying out of any agreement for any term not exceeding five years with such person or corporation for the supply of water. Supplying water outside of municipality

Subject however to the provision that where such water is to be supplied in another municipality no pipes shall be carried in, upon, through, over or under any highway or public street, lane, road or passage within such other municipality without the consent of the council of such municipality and subject to the further provision that the right to supply water to such person or corporation shall cease upon any municipality theretofore or thereafter incorporated comprising the area within which such water is supplied undertaking to supply water to such person or corporation 1903, Sess. 2, c. 22, s. 4.

**5.** All bylaws heretofore passed and all agreements heretofore made which would have been valid if passed after the coming into force of this Ordinance under the provisions of the next preceding section are hereby ratified and confirmed. 1903, Sess. 2, c. 22, s. 5. Bylaws for such purpose confirmed

## INCORPORATION OF TOWNS IN RURAL MUNICIPALITIES.

**6.** The Lieutenant Governor in Council in case it is made to appear that any area not exceeding 1,280 acres included within the limits of a rural municipality contains a population of more than four hundred persons may order a vote of the ratepayers to be taken on the question of the constitution of the said area as a town municipality and may by the said order name a returning officer to take the said vote. 1903, Sess. 2, 22, s. 6. Conditions for incorporation of towns in rural municipality

**7.** Notice of the said order shall be given by the returning officer by publication in the same manner as is required to be Notice to be published given by section 14 of *The Municipal Amendment Ordinance 1901* in the case of the proposed erection of a village into a town municipality. 1903, Sess. 2, c. 22, s. 7.

Contents of notice

**8.** The said notice shall state:

(*a*) The area of the proposed town;

(*b*) The name approved by the Lieutenant Governor in Council;

(c) The date and place for taking the said vote. 1903, Sess. 2, c. 22, s. 8.

Secretary treasurer to furnish returning officer with copy of assessment roll

**9.** The secretary treasurer of the rural municipality shall forthwith on demand by the returning officer furnish him with a certified copy of that portion of the last revised assessment roll of the said municipality containing the names of the men, married women and widows over twenty-one years of age who are assessed upon the last revised assessment roll of the rural municipality for income or personal property within the area of the proposed town for $200 or upwards or who are named upon the said assessment roll as either owners or occupants of real property situate within the area of the proposed town held in their own right or in the case of married men held by their wives for $200 or upwards. 1903, Sess. 2, c. 22, s. 9.

Question to be submitted

**10.** The question to be submitted at the said vote shall be "For the incorporation" or "Against the incorporation" and such question shall be determined by open voting. 1903, Sess. 2, c. 22, s. 10.

Qualification of voters

**11.** The persons qualified to vote upon such question shall be the persons whose names appear upon the certified copy of the assessment roll mentioned in section 9. 1903, Sess. 2, c. 22, s. 11.

Returning officer to certify result

**12.** Upon the close of the poll the returning officer shall certify the result of the poll to the Lieutenant Governor in Council and shall forward with his certificate the certified copy of the assessment roll. 1903, Sess. 2, c. 22, s. 12.

If approved by two-thirds votes town may be incorporated

**13.** If two-thirds of the votes are in favour of the incorporation of the town the Lieutenant Governor in Council may by proclamation incorporate the town comprising the said area or such less area as he may think fit. 1903, Sess. 2, c. 22, s. 13.

Municipal Ordinance to apply

**14.** From and after the incorporation of the said town all of the provisions of *The Municipal Ordinance* applying to town municipalities shall apply thereto. 1903, Sess. 2, c. 22, s. 14.

**15.** The Lieutenant Governor may in his proclamation hereinbefore mentioned appoint a returning officer to hold the first election of mayor and councillors for the said town. 1903, Sess. 2, c. 22, s. 15.

First election

**16.** The persons eligible for election as mayor and councillors at such first election shall be any male British subject of the full age of twenty-one years, able to read and write, resident within or within two miles of the limits of the town the owner at the time of the election of freehold real estate rated in their own names on the last revised assessment roll mentioned in section 9 hereof of the value of at least $500 or of leasehold real estate rated as aforesaid of the value of at least $1,500 over and above all charges, liens and incumbrances affecting the same. 1903, Sess. 2, c. 22, s. 16.

Qualification of mayor, etc.

**17.** The persons qualified to nominate candidates for the office of mayor or councillors shall be the persons qualified to vote for such candidates. 1903, Sess. 2, c. 22, s. 17.

Who may nominate

**18.** The term of office of the mayor elected at the first election shall if such election be prior to the first day of July be until the end of the then calendar year and if such election be not prior to the first day of July then until the end of the then next ensuing calendar year. 1903, Sess. 2, c. 22, s. 18.

Term of office of mayor

**19.** The three candidates first nominated for councillors in the event of there being no poll or the three candidates receiving the highest number of votes in the event of a poll being held shall be declared elected for the term ending at the end of the calendar year next following or next but one following the date of the election according as such election is held prior or not prior to the first day of July and the remaining three candidates elected shall be declared elected for the term ending with the then calendar year or the then next following calendar year according as such election is held prior or not prior to the first day of July. 1903, Sess. 2, c. 22, s. 19.

Term of office of councillors

**20.** The persons qualified to vote at the first election of mayor and councillors shall be the persons mentioned in section 11 hereof. 1903, Sess. 2, c. 22, s. 20.

Qualification of voters

**21.** The returning officer shall be the secretary treasurer of the said town and shall hold office until his successor is appointed by the council. 1903, Sess. 2, c. 22, s. 21.

Returning officer to be secretary treasurer

"Registrar" shall mean the registrar of joint stock companies as defined by *The Companies Ordinance;*

"Mutual insurance" shall mean insurance against loss by fire given in consideration of a premium note or undertaking as provided by this Ordinance with or without a cash payment thereon;

"Mutual fire insurance company" or "mutual company" shall mean a company organised in terms of this Ordinance and empowered only to transact mutual insurance business;

"Member" shall mean a holder of a subsisting mutual insurance policy issued by a mutual company;

"Premium note" shall mean an instrument given as consideration for insurance whereby the maker undertakes to pay such sum or sums as may be legally demanded by the insurer the aggregate of such sums not to exceed an amount specified in the instrument. 1903, Sess. 2, c. 21, s. 2.

## INCORPORATION.

**Certificate of agreement to form company**

**3.** Any thirty or more persons each having an insurable interest in property real or personal exposed to damage by fire who may desire to form a mutual fire insurance company under this Ordinance may make and sign a certificate in writing in which shall be stated:

(*a*) That the persons signing have agreed to form a mutual fire insurance company under this Ordinance;

(*b*) The name of the company which shall contain the words "mutual fire" and shall be subject to approval by the registrar;

(*c*) The name of the city, town or other place in which the principal office of the company is to be located;

(*d*) That each person signing will become a member of the company by insuring with the company property in which he has an insurable interest according to the mutual insurance plan and subject to the rates, tariff and entrance fees to be determined by the provisional directors of the company;

(*e*) The number and names of the provisional directors of the company—who shall not be less than seven nor more than fifteen—who shall manage all the affairs of the company until the first general meeting of the company;

(*f*) That the members are not individually liable for the debts of the company beyond the amounts due under the premium notes given by each to the company.

(2) Such certificate shall be in duplicate and shall be signed in the presence of at least one witness and shall be accompanied by an affidavit by the witness proving the signatures made before some person authorised to take affidavits for use in the supreme court of the North-West Territories.

(3) The total amount of insurance proposed to be taken under such certificate shall be not less than thirty thousand dollars. 1903, Sess. 2, c. 21, s. 3.

**Incorporation**

**4.** One duplicate of the said certificate shall be filed with the registrar accompanied with a fee of ten dollars and thereupon the subscribers thereto and other persons thereafter becoming members shall be a body corporate by and under the name adopted and approved by the registrar and have a common seal. 1903, Sess. 2, c. 21, s. 4.

**First general meeting**

**5.** The registrar shall thereupon fix the date and place of the first general meeting of the company and cause a notice to be published in the next and one following issue of the official gazette in the form following, viz.:

MUTUAL FIRE INSURANCE ORDINANCE.

Certificate filed for incorporation of the
Mutual Fire Insurance Company of this date.
Head office in North-West Territories.
The following are the provisional directors of the company, viz.:
*(Insert names and addresses.)*
The liability of the members is limited.
The first general meeting of the company will be held in
on the day of 190 ,
at the hour of o'clock in
*Registrar.*
19 . 1903, Sess. 2, c. 21, s. 5.

**Certified copy of certificate of incorporation as evidence**

**6.** A copy of any certificate of incorporation filed in pursuance of this Ordinance certified by the registrar or a copy of the official gazette containing the registrar's notice of such certificate or a certificate of the registrar of any facts respecting any mutual company shall be *prima facie* evidence of the facts therein stated. 1903, Sess. 2, c. 21, s. 6.

Powers of company

7. A mutual company so incorporated may sue or be sued in any court under the corporate name; it may purchase, lease, hold, sell, convey or mortgage any real or personal property required for the business of the company or for the investment of any reserve fund or other moneys belonging to the company; it may also invest funds belonging to the company on mortgage on real estate; or in the purchase of Dominion, provincial or municipal bonds or on such other securities or investments as the directors may select; and it may appoint such officers or agents as the business of the company shall require and define their powers and duties and fix their remuneration and the amount of the security to be required of them; and it may make bylaws not inconsistent with this Ordinance for the management of its busness, the regulaton of the tariff of rates, the levying of assessments and the terms and conditions of its insurance policies. 1903, Sess. 2, c. 21, s. 7.

Forfeiture of the corporate powers

8. The corporate powers of the company shall be forfeited and cease except for the purpose of winding up provided:

1. That there are not before the lapse of one year from the date of filing the certificate of incorporation mutual insurance policies of the company in force to a total amount of two hundred thousand dollars; or

2. That at any time thereafter the total amount of such insurance policies shall have diminished and become less than two hundred thousand dollars. 1903, Sess. 2, c. 21, s. 8.

Directors may exercise powers

9. The corporate powers of the company may be exercised by the provisional board of directors prior to the date of the first meeting of the company and thereafter by the successive boards of directors appointed by the members of the company. 1903, Sess. 2, c. 21, s. 9.

Provisional directors to appoint officers

10. Within one month after incorporation of the company the provisional directors shall meet and appoint a president and vice president from their own number and shall also appoint a secretary and a treasurer and such other officers as may be required to hold office till after the first general meeting of the company and shall also within such period prepare a tariff of rates for premium notes and for entrance fees and fixed annual payments to be paid or undertaken by members in exchange for the insurance policies of the company and they shall adopt such other measures as will conduce to the establishment and furtherance of the company business and shall also prepare such bylaws as they deem necessary to regulate the business of the company or for any other purpose to be submitted to the first general meeting of the company. 1903, Sess 2, c. 21, s. 10.

### THE DIRECTORS, THEIR ELECTION AND POWERS.

**11.** The affairs of the company shall be managed by a board of directors of not less than seven or more than fifteen members the majority of whom shall be British subjects and all of whom shall be members of the company and holders of insurance therein for at least one thousand dollars each. 1903, Sess. 2, c. 21, s. 11. **Board of directors**

**12.** At the first meeting of the company a board of directors shall be elected from amongst the subscribers such board to consist of not less than seven or more than fifteen members and no subscriber shall be elected as a director unless he is a subscriber for insurance in the company to at least one thousand dollars. 1903, Sess. 2, c. 21, s. 12. **First directors**

**13.** The directors so elected shall hold office and enjoy all the powers exercised by the directors elected as hereinafter provided until replaced or re-elected at the first annual meeting of the company. 1903, Sess. 2, c. 21, s. 13. **Term of office**

**14.** In case an election of directors be not made on the day on which it ought to have been made the company shall not for this cause be dissolved but the election may be held on any subsequent day at a meeting to be called by the directors for that purpose or as is otherwise provided for by the bylaw of the company and in such case the directors shall continue to hold office until their successors are elected. 1903, Sess, 2, c. 21, s. 14. **Failure of election on proper day**

### GENERAL POWERS OF THE BOARD OF DIRECTORS.

**15.** The board shall appoint a president and vice president from their own number and may from time to time appoint a manager, a secretary, a treasurer and such other officers, agents or assistants as to them may seem necessary, prescribe their duties, fix their compensations or allowances, take such secruity from them as may be required for the faithful performance of their respective duties and remove them and appoint others instead. 1903, Sess. 2, c. 21, s. 15. **Officers**

**16.** The said board may also adopt a tariff of rates for insurance and vary the same from time to time and determine the sum to be insured on any property. 1903, Sess. 2, c. 21, s. 16. **Tariff of rates**

**17.** The board of directors may from time to time make and prescribe such regulations or bylaws as to them may appear **Regulations and bylaws**

needful and proper respecting the funds and property of the company, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by the company, the holding of the annual meeting, and such other matters as appertain to the business of the company and are not contrary to law and may from time to time alter and amend the said regulations and bylaws except in cases with regard to which such regulations or bylaws may not be repealed or where such repeal would affect the rights of others than the members of the company; in any of which cases such regulations or bylaws shall not be repealed. 1903, Sess. 2, c. 21, s. 17.

Bylaws to require confirmation

**18.** Every bylaw and every repeal, amendment or re-enactment thereof unless in the meantime confirmed at a general meeting of the company duly called for that purpose shall only have force until the next annual meeting of the company and in default of confirmation thereat shall at and from that time cease to have force and in that case no new bylaw to the same or like effect shall have any force until confirmed at a general meeting of the company. 1903, Sess. 2, c. 21, s. 18.

Board to manage property of company

**19.** The board of directors shall superintend and have the management of the funds and property of the company and of all matters relating thereto not otherwise provided for. 1903, Sess. 2, c. 21, s. 19.

Manager may be a director

**20.** The manager of a mutual company may be elected also a director though he may not be a member and he may be paid an annual salary or he may be remunerated for his services in such other form as the directors may determine. 1903, Sess. 2, c. 21, s. 20.

Paid officers not eligible for directors

**21.** No paid officer or person in the employment of the company other than the manager shall be eligible to be elected a director or to take part in the election of the directors though he may be a member of the company. 1903, Sess. 2, c. 21, s. 21.

Directors to hold office for one year

**22.** The directors of the company shall hold office for a period of one year but shall be eligible for re-election. 1903, Sess. 2, c. 21, s. 22.

Failing a quorum at an annual meeting, directors to hold office

**23.** In the event of a quorum not being present at the annual general meeting of the company the retiring directors shall hold office until their successors are appointed and the board shall convene another general meeting to be held within two months of the date of the annual general meeting to transact the business of the annual general meeting. 1903, Sess. 2, c. 21, s. 23.

**Directors to fill vacancy at board**

**24.** In the event of a vacancy arising on the board of directors through the death, insolvency, disqualification or resignation of any of the directors or through the absence from three consecutive meetings of the board of any member without leave of the board which shall *ipso facto* vacate his office the vacancy so arising will be filled by the directors whose appointee shall hold office until the next annual general meeting of the company. 1903, Sess. 2, c. 21, s. 24.

**Borrowing powers of board**

**25.** The board may issue debentures, mortgages or promissory notes in favour of any person, firm, company or banking institution for money borrowed and they may borrow money for the purposes of the company for any term not exceeding one year and on such conditions as to interest and mode of repayment as they may think proper; and they may renew such debentures, mortgages or promissory notes from time to time if necessary within the said term of one year; but the total amount so borrowed shall at no time exceed one-half of the total amount remaining due on the premium notes held by the company. 1903, Sess. 2, c. 21, s. 25.

**Lending money, etc. to directors forbidden**

**26.** The board shall not loan money to or borrow money from any director of the company or enter into any contract with any director other than the issue of a policy of insurance in the ordinary course of business. 1903. Sess. 2, c. 21, s. 26.

**Directors entitled to travelling expenses**

**27.** The directors may be paid a reasonable allowance for travelling expenses to attend meetings of the board or to attend to the business of the company. 1903, Sess. 2, c. 21, s. 27.

**Annual general meeting may vote payment to directors**

**28.** At any annual general meeting of the company it shall be lawful to vote to the directors or any of them for the preceding year such sum or sums of money as may be deemed reasonable remuneration for their services. 1903, Sess. 2, c. 21, s. 28.

## MEMBERS.

**Admission of members**

**29.** The company through its board of directors may admit as a member thereof the owner of any property real or personal by the issuance to such owner of a policy of mutual insurance insuring such owner against loss in respect thereof as herein-needful and proper respecting the funds and property of the company, the duties of the officers, agents and assistants thereof, the effectual carrying out of the objects contemplated by the company, the holding of the annual meeting, and such other matters as appertain to the business of the company and are not contrary to law and may from time to time alter and amend the said regulations and bylaws except in cases with regard to which such regulations or bylaws may not be repealed or where such repeal would affect the rights of others than the members of the company; in any of which cases such regulations or bylaws shall not be repealed. 1903, Sess. 2, c. 21, s. 17.

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### MEMBERS.

Admission of members

**29.** The company through its board of directors may admit as a member thereof the owner of any property real or personal by the issuance to such owner of a policy of mutual insurance insuring such owner against loss in respect thereof as hereinafter provided and every person so admitted shall be entitled to like rights and be subjected to like liabilities as other members of the company. 1903, Sess. 2, c. 21, s. 29.

Applicant not a member

**30.** No applicant for insurance shall be deemed a member of the company or be entitled to be elected as a director of the company or be entitled to take part in any of the company's meetings until his policy of insurance has been issued to him. 1903, Sess. 2, c. 21, s. 30.

Member may withdraw with consent of directors

**31.** Any member of a company may with consent of the directors at any time withdraw therefrom upon such terms as the directors may require in respect of his obligations to the company. 1903, Sess. 2, c. 21, s. 31.

Limitation of liability

**32.** No member of a company shall be liable in respect of any loss or other claim or demand against the company otherwise than upon and to the extent of the amount unpaid upon his premium note or other undertaking. 1903, Sess. 2. c. 21, s. 32.

### MEETINGS OF THE COMPANY.

First general meeting

**33.** At the first general meeting of the company the members shall appoint as a board of directors not less than seven nor more than fifteen duly qualified members of the company and they shall also pass such bylaws as shall be necessary in the interests of the company and they may appoint auditors or other officers of the company. 1903, Sess. 2, c. 21, s. 33.

Annual general meetings

**34.** Meetings of the members of a mutual company shall be held in every year within two months after the thirty-first day of December at such time and place as may be prescribed by the directors or by the bylaws of the company. At such meeting in addition to the election of directors there shall be submitted and considered a report of the transactions of the company for the preceding year together with a full statement of its affairs exhibiting in detail its receipts and expenditures and its assets and liabilities and a report by the auditors of the company thereon. 1903, Sess. 2, c. 21, s. 34.

Special meeting

**35.** A special meeting of the members shall be convened by the directors at the written request of ten members of the company and the directors may themselves convene such a meeting when occasion requires; notice in either case shall be given in the manner hereinafter provided. 1903, Sess. 2, c. 21, s. 35.

**36.** Notice of an annual or special meeting of the company shall be published in one or more daily or weekly newspapers published and circulating in the district embraced in the operations of the company and be given by circular letter mailed by the secretary to the last known postal address of the members at least fourteen days previous to the date of the meeting. 1903, Sess. 2, c. 21, s. 36. Notices of annual or special general meetings

**37.** Each member of the company shall be entitled at all meetings of the company to the number of the votes proportioned to the amount by him insured according to the following rates that is to say: For any sum under one thousand dollars, one vote; from one thousand dollars to three thousand dollars, two votes. 1903, Sess. 2, c. 21, s. 37. Votes at meetings

### QUORUM AT MEETINGS.

**38.** Fifteen members actually present shall form a quorum at all meetings of the company and five directors shall be a quorum at all board meetings. 1903, Sess. 2, c. 21, s. 38. Quorum at general and board meetings

### OFFICERS AND RECORDS.

**39.** The treasurer, secretary or other officer having charge of the funds of the company shall give security to the satisfaction of the board of directors in an amount to be fixed by a general meeting or by the directors but not to be less than $2,000 for the faithful discharge of his duties. 1903, Sess. 2, c. 21, s. 39. Treasurer to give security

**40.** Every mutual company shall keep full and distinct records of all its business and transactions including registers of all policies issued and premium notes and cash payments received in respect thereof; books of account showing all cash transactions; minute books and letter books and such other records as are usual and necessary to give a full and clear idea of the operations of the company; and these records shall be at all times accessible to any director or auditor of the company or to any one having authority from a general meeting on their behalf to examine and report upon the same. 1903, Sess, 2, c. 21, s. 40. Full records of all the business done to be kept

**41.** At the annual general meeting or at a special meeting of which due notice has been given one or more auditors of the company may be appointed who shall make periodical or special examination of the books of the company and report to the directors thereon and who shall receive such remuneration as may be fixed by that or any other meeting of the directors of the company. 1903, Sess. 2, c. 21, s. 41. Auditors of the company to be appointed

### RETURNS.

**Annual return to the registrar**

**42.** Within one month after the annual general meeting in each year the secretary of the company shall file with the registrar a return verified by the affidavit of the president and the secretary setting forth:

First, the assets of the company specifying:

(*a*) The value of the real estate;

(*b*) The amount of cash on hand and deposited in banks to the credit of the company naming the banks and the amount in each;

(*c*) The amount of cash in company's office and in agents' hands respectively;

(*d*) The amount of any loans or investments and the nature of the security held therefor in detail and what, if any, payments are in arrear thereon;

(*e*) The amount of assessments on premium notes or undertakings on hand;

(*f*) The amount still payable upon premium notes or undertakings on hand;

(*g*) Other amounts due to the company;

Secondly, the liabilities of the company specifying:

(*a*) The amount of losses due and yet unpaid;

(*b*) The amount of claims for losses resisted;

(*c*) The amount of losses incurred during the year including those claimed but not adjusted;

(*d*) The amount payable for money borrowed and security given and interest payable;

(*e*) The amount of all other existing claims against the company;

(*f*) The amount covered by policies in force in respect of each class of risk;

Thirdly, the income of the company during the preceding year specifying:

(*a*) The amount of cash received on premium notes;

(*b*) The amount of premium notes or undertakings;

(*c*) The amount of interest received;

(*d*) The amount of income from all other sources;

Fourthly, the expenditure during the year specifying:

(*a*) The amount of losses paid during the year stating how much of the same accrued prior and how much subsequent to the date of the last preceding statement and the amount at which such prior accrued losses were estimated in such preceding statement;

(*b*) The amount of expenses paid during the year;

(*c*) The amount of taxes;

(*d*) The amount paid for reinsurance;

(*e*) The amount of all other payments and expenditures under their appropriate heads;

Fifthly, a full copy of all the bylaws adopted by the directors or by a general meeting during the preceding year;

Sixthly, the names of the president, vice president, secretary treasurer, directors and auditors of the company appointed for the current year. 1903, Sess. 2, c. 21, s. 42.

**Special returns**

**43.** Any company shall further when required make prompt and explicit answer in reply to any inquiries in relation to its transactions which may be required by the Lieutenant Governor in Council; and any company which fails to make and deposit such statement as in the next preceding section required so verified or to reply to such inquiry and its manager and secretary shall be subject respectively on summary conviction for each offence to a fine or penalty of fifty dollars to be recovered on behalf of his Majesty for the use of the North-West Territories. 1903, Sess. 2, c. 21, s. 43.

### INSURABLE PROPERTY.

**Subjects that may be insured**

**44.** A mutual company may insure the owners of dwelling houses, household furniture, machinery, live stock, farm produce, farm buildings and implements, churches, schools, creameries, cheese factories, warehouses, stores and merchandise, and other buildings and commodities situated in the Territories against loss through damage of such subjects by fire or lightning whether the same happens by accident or any other means except that of design on the part of the insured or by the invasion of an enemy or by insurrection. 1903, Sess. 2, c. 21, s. 44.

**Contracts of insurance not to exceed three years**

**45.** Contracts of insurance by mutual companies shall not exceed the term of three years and unless a mutual company has a reserve fund of at least two thousand dollars and premium notes and undertakings to the amount of at least five thousand dollars no single risks shall be undertaken and held

Limit as to amount of risk

by the company alone for an amount larger than two thousand dollars. The maximum amount of any single risk that can be undertaken and held by a mutual company alone is three thousand dollars. 1903, Sess. 2, c. 21, s. 45.

Validity of mutual insurance contracts

**46.** All contracts of mutual insurance sealed with the seal of the company, signed by the president or vice president and countersigned by the secretary shall be binding on the company. 1903, Sess. 2, c. 21, s. 46.

Contract may be renewed by renewal receipt

**47.** Any contract may be renewed at the discretion of the board of directors by renewal receipts instead of a new policy on the insured furnishing the required cash and premium note but such renewal must be effected before the actual lapse of the period of the principal contract. 1903, Sess. 2, c. 21, s. 47.

Minimum rate to be charged

**48.** The minimum rate to be charged or taken by any company for insuring first class isolated nonhazardous property, shall not be less than thirty-three and one-third cents per one hundred dollars per annum; and the minimum rate of insurance upon other property shall be increased relatively with the increased risk according to the nature of such property. 1903, Sess. 2, c. 21, s. 48.

Reinsurance

**49.** The directors of a mutual company may make arrangements with any mutual or stock company carrying on business in the Dominion of Canada for reinsurance of risks undertaken by the company on such terms and conditions as to premiums and rates of losses as may be arranged. 1903, Sess. 2, c. 21, s. 49.

Effect of cancellation of policy

**50.** If the policy be cancelled or avoided by the company the liability of the insured on his premium note or undertaking shall cease from the date of such cancellation or avoidance on account of any loss that may occur to the company thereafter but the party insured shall nevertheless be liable to pay his proportion of the losses and expenses of the company to the time of cancelling or avoiding the policy and on payment of his proportion of all assessments then payable and to become payable in respect of losses and expenses sustained up to such period shall be entitled to a return of his premium note or undertaking and such proportion of the premium paid by him as shall not have been absorbed by the losses and expenses of the company up to such period and a condition to this effect shall be indorsed on the policy. 1903, Sess. 2, c. 21, s. 50.

**51.** If the company become entitled to avoid a policy for alienation or partial alienation of the insured property or of any interest therein upon the return of the policy to the company to be cancelled unless the directors elect to continue the same the assured shall be entitled to receive his premium note or notes upon payment of his proportion of all losses and expenses which had accrued prior to such surrender; but the assignee may have the policy transferred to him and upon application of the directors such assignee on giving proper security to their satisfaction for such proportion of the premium note or undertaking as remains unpaid and with their consent within thirty days next after such alienation may have the policy ratified and confirmed to him; and by such ratification and confirmation the said assignee shall be entitled to all the rights and privileges and be subject to all the liabilities and conditions to which the original party insured was entitled and subject: **Assignment of property insured**

Provided however that in case where the assignee is a mortgagee the directors may permit the policy to remain in force and to be transferred to him by way of additional security without requiring any premium note or undertaking from such assignee or without his becoming in any manner personally liable for premiums or otherwise; but in such cases the premium note or undertaking and liability of the mortgagor in respect thereof shall continue and be in no wise affected. 1903, Sess. 2, c. 21, s. 51.

**52.** The company may accept premium notes or the undertaking of the insured for insurances and may issue policies thereon said notes or undertakings to be assessed for the losses and expenses of the company in manner hereinafter provided. 1903, Sess. 2, c. 21, s. 52. **Company may accept premium note**

PREMIUM NOTES AND ASSESSMENTS.

**53.** The directors may demand a part of the amount of premium note or undertaking at the time that application for insurance is made; and such first payment may be in cash or by promissory note and may be credited upon said premium note or undertaking or against future assessments. 1903, Sess. 2, c. 21, s. 53. **Part payment in premium notes**

**54.** The directors may collect a portion of the premium in cash and take a premium note for the remainder thereof; and in case the amount so collected is more than sufficient to pay all losses and expenses during the continuance of the policy then any such surplus shall become part of the reserve fund. 1903, Sess. 2, c. 21, s. 54. **Part payment in cash**

**Assessments on premium notes**

**55.** The directors may make assessments upon premium notes before losses have happened or expenses have been incurred and any surplus from such assessment shall become part of the reserve fund. 1903, Sess. 2, c. 21, s. 55.

**Manner of assessment**

**56.** All premium notes or undertakings belonging to the company shall be assesssed under the direction of the board of directors at such intervals from their respective dates and for such sums as they may think necessary to meet the losses and other expenditures of said company during the currency of the policies for which said notes or undertakings were given and in respect for which they are liable for assessment; and every member of the company or person who has given a premium note or undertaking shall pay the sums from time to time payable by him to the company during the continuance of the policy in accordance with such assessment; and any such assessment shall become payable in thirty days after notice of such assessment shall be mailed to such member or person who has given the premium note or undertaking directed to his post office address as given in his original application or in writing to the secretary of the company. 1903, Sess. 2, c. 21, s. 56.

**Voidance of policy on default in payment of assessments**

**57.** If the assessment on the premium note or undertaking upon any policy be not paid within thirty days after the day on which the said assessment shall have become due the policy of insurance for which said assessment shall have been made shall be null and void as respects all claim for losses occurring during the time of such nonpayment:

Provided always that the said policy shall be renewed when such assessment shall have been paid unless the secretary give notice to the contrary to the assessed party in the manner hereinafter provided; but nothing shall relieve the assured party from his liability to pay such assessment or any subsequent assessments nor shall such assured party be entitled to recover the amount of any loss or damage which may happen to property insured under such policy while such assessment shall remain due and unpaid unless the board of directors in their discretion shall decide otherwise. 1903, Sess. 2, c. 21, s. 57.

**Notice of assessment**

**58.** A notice of assessment upon any premium note or undertaking mailed as aforesaid shall be deemed sufficient if it embody the number of the policy, the period over which the assessment extends, the amount of the assessment, the time when and the place where payable. 1903, Sess. 2, c. 21, s. 58.

Assessments to be *pro rata*

**59.** The assessment upon premium notes or undertakings shall always be in proportion to the amount of said notes or undertakings having regard to the branch or department to which their policies respectively appertain. 1903, Sess. 2, c. 21, s. 59.

Right of suit on default in payment

**60.** If any member or other person who has given a premium note or undertaking shall for thirty days after notice of assessment shall have been mailed to him in manner aforesaid neglect or refuse to pay such assessment the company may sue for and recover the same with costs of suit and such proceeding shall not be a waiver of any forfeiture incurred by such nonpayment. 1903, Sess. 2, c. 21, s. 60.

Evidence in suit

**61.** Whenever any assessment is made on any premium note or undertaking given to the company for any risk taken by the company or as a consideration for any policy of insurance issued or to be issued by the company and an action is brought to recover such assessment the certificate of the secretary of the company specifying such assessment and the amount due to the company on such note or undertaking by means thereof shall be taken and received as *prima facie* evidence thereof in any court in the North-West Territories. 1903, Sess. 2, c. 21, s. 61.

Contents of note to be retained in event of loss to implement contract

**62.** If there is a loss on property insured by the company the directors may retain the amount of the premium note given for insurance thereon until the time has expired for which insurance has been made and at the expiration of the said time the assured shall have the right to demand and receive such part of the retained sum as has been assessed for or become due under fixed payments. 1903, Sess. 2, c. 21, s. 62.

Note to be given up after term of contract

**63.** Forty days after the expiration of the term of insurance the premium note given for the insurance policy shall on application therefor be given up to the grantor thereof provided all assessments levied and all losses and expenses with which the note is chargeable have been paid. 1903, Sess. 2, c. 21, s. 63.

Reserve fund

**64.** The company may form a reserve fund to consist of all moneys which shall remain on hand at the end of each year after payment of the ordinary expenses and losses of the company; and for that purpose the board of directors may levy an annual assessment not exceeding twenty-five per centum on the premium notes or undertakings held by said company and such annual assessment may be made in advance; and such reserve fund may from time to time be applied by the directors to pay off such liabilities of the company as may not be provided for out of the ordinary receipts for the same or any succeeding year:

Provided that such reserve fund shall be invested either in debentures or other securities of the Dominion of Canada or the provinces of the Dominion or the North-West Territories, or in municipal or school debentures or real estate mortgages or other securities or may remain in a chartered bank on deposit at interest. 1903, Sess. 2, c. 21, s. 64.

Reserve fund to be the property of company

**65.** The reserve fund shall be the property of the company as a whole and no member shall have any right to claim any share or interest therein in respect of any payment contributed by him towards it but in the event of the company being wound up possessed of an existing reserve fund the then members shall be entitled to divide the same among themselves *pro rata* according to the amount of their premium notes with the company. 1903, Sess. 2, c. 21, s. 65.

### CASH PREMIUM INSURANCE.

Short term policies may be issued on cash plan

**66.** A mutual company may effect policies of insurance on the cash premium plan for periods not exceeding one year and the directors shall prepare a tariff of rates for such policies but no single risk shall be undertaken of a larger amount than two thousand dollars. 1903, Sess. 2, c. 21, s. 66.

Policy holders under cash plan not thereby to be members of company

**67.** Policy holders under the cash plan shall not as such be members of the company or have any liability for its debts or obligations. 1903, Sess. 2, c. 21, s. 67.

### BRANCHES OR DEPARTMENTS.

Separate branches

**68.** Any company may separate its business into branches or departments with reference to the nature or classification of risks or of the localities in which insurances may be effected. 1903, Sess. 2, c. 21, s. 68.

Business to be kept separate

**69.** The directors of every company so separating its business shall make a scale of risks and tariff of rates for each branch and direct that the amounts of each shall be kept separate and distinct the one from the other. 1903, Sess. 2, c. 21, s. 69.

**Apportionment of expenses**

**70.** All necessary expenses incurred in the conducting and management of any such company shall be assessed upon and divided between the several branches in such proportion as the directors may determine. 1903, Sess. 2, c. 21, s. 70.

### MISCELLANEOUS.

**Fire insurance policy Ordinance to apply to the mutual policies**

**71.** The provisions of *The Fire Insurance Policy Ordinance* shall apply to all policies issued by a mutual company but it shall be optional with the directors to pay or allow claims which are void under the 3rd, 4th or 8th of the statutory conditions in said Ordinance and to waive the objections therein mentioned. 1903, Sess. 2, c. 21, s. 71.

**Limit on right to hold lands**

**72.** The company may hold such lands only as are requisite for the accommodation of the company in the transaction of its business or such lands as have been *bona fide* mortgaged to it by way of security or conveyed to it in satisfaction of debts contracted in the course of its dealings or purchased at sale upon judgments obtained for such debts and may from time to time sell, mortgage and convey or lease any such lands. 1903, Sess. 2, c. 21, s. 72.

**Judgment against a mutual company not to issue for sixty days**

**73.** In the event of judgment being obtained against a mutual company the issue of execution shall be stayed for sixty days from the date of judgment. 1903, Sess. 2, c. 21, s. 73.

**Winding up**

**74.** In the event of the corporate powers of the company being forfeited in terms of section 9 of this Ordinance or in the event of the members adopting a resolution at a general meeting of which due notice has been given to wind up the company the company may in general meeting appoint a receiver or receivers to conduct the winding up proceedings and such receiver or receivers shall thereupon have the full power and authority of directors in the matter. 1903, Sess. 2, c. 21, s. 74.

**Receiver to effect reinsurance if funds are available**

**75.** It shall be lawful for the receiver to use the reserve or guarantee funds if necessary to effect an equitable reinsurance of all risks held by the company whether held under the premium note plan or a short term policy on the cash plan. 1903, Sess. 2, c. 21, s. 75.

**Receiver to file statement**

**76.** After winding up the affairs of the company the receiver shall file with the registrar a full statement of his transactions and intromissions with copy of minutes of a general meeting approving of his report and management. 1903, Sess. 2, c. 21, s. 76.

# NOTARIES PUBLIC.

C.O. 1898, c. 25
15 March, 1899

## An Ordinance respecting Notaries Public.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Appointments

**1.** The Lieutenant Governor in Council may appoint by commission under his hand and the seal of the Territories one or more notaries public for the said Territories, provided that no appointment shall be made of any person or persons who at the time shall not be *British subjects* actually residing within the said Territories. C. O. 25, s. 1, and 1903, Sess. 1, c. 10, s. 1.

Powers

**2.** Every such notary shall have, use and exercise the power of drawing, passing, keeping and issuing all deeds and contracts, charter parties and other mercantile transactions in the said Territories and also of attesting all commercial instruments that may be brought before him for public protestation and otherwise of acting as usual in the office of notary and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the said calling of notary public during pleasure. C. O. 25, s. 2.

Fee for commission

**3.** For every commission issued under this Ordinance there shall be payable the sum of $10 to the general revenue fund of the Territories *or such less sum as may be fixed by the Lieutenant Governor in Council.* C. O. 25, s. 3, and 1903, Sess. 1, c. 10, s. 2.

Duration of commission

**4.** *Every commission issued under section 1 of this Ordinance unless issued to an advocate of the North-West Territories and unless it is sooner revoked shall if the same has been issued before the passing of this Ordinance expire on the thirty-first day of December, 1905, and shall if the same is issued after the passing of this Ordinance expire at the expiration of two years from the thirty-first day of December of the year in which it is issued.* 1903, Sess. 1, c. 10, s. 3.

Date of expiration of commission to be noted on certificate

**5.** *Any notary public whose commission expires under the terms of the next preceding section shall write or stamp on every affidavit, declaration or other certificate taken or given by him the date on which such commission expires.*

(2) *Any notary public failing to comply with the provisions of this section shall be liable on summary conviction to a fine not exceeding $10 and costs.* 1903, Sess. 1, c. 10, s. 3.

# NOXIOUS WEEDS.

## An Ordinance respecting Noxious Weeds.

1903, sess. 1, c. 24
19 June, 1903

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Noxious Weeds Ordinance."* 1903, Sess. 1, c. 24, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

1. The expression "noxious weeds" shall include tumbling mustard, hares-ear mustard, common wild mustard, ball mustard, tansy mustard, wormseed mustard, false flax, shepherd's purse, stink weed, red root, Canada thistle, Russian thistle, ragweed, wild oats, *Russian pig weed and blue burs;*

2. The expression "department" means the department of agriculture;

3. The expression "commissioner" means the commissioner of agriculture;

4. The expression "inspector" means an inspector appointed under this Ordinance;

5. The expression "occupant" means a person occupying or having the right to occupy any land;

6. The expression "owner" includes every person who has any estate or interest in land, or who has any right to be vested with such an estate or interest. 1903, Sess. 1, c. 24, s. 2 and 1904, c. 11, s. 1.

### INSPECTORS AND OTHER OFFICERS.

Appointment of inspectors and officers

**3.** The commissioner may from time to time appoint such inspectors and other officers as may be required to carry out the provisions of this Ordinance, fix their remuneration and define their duties. 1903, Sess. 1, c. 24, s. 3.

### DUTY OF OWNER OR OCCUPANT OF LAND.

Noxious weeds to be destroyed

**4.** Every owner or occupant of land shall destroy all noxious weeds thereon and if he makes default in so doing he shall be guilty of an offence and on prosecution therefor by an overseer of the local improvement district or by an inspector or other officer under this Ordinance, shall on summary conviction thereof be liable to a penalty not exceeding $100 and costs.

(2) For the purpose of this Ordinance the owner, or occupant of any land adjoining a public road shall be deemed to be the owner or occupant of that portion of such road which lies between the centre line thereof and the adjoining land of which he is the owner or occupant. 1903, Sess. 1, c. 24, s. 4.

### DESTRUCTION OF WEEDS.

Weeds on cropped lands

**5.** Any inspector finding noxious weeds growing in any grain crop may notify the owner:

(*a*) To cut and burn or plough under such crop or any part thereof within a stated time; or

(*b*) To fence or burn the straw and screenings from such crop within ten days after it is threshed. 1903, Sess. 1, c. 24, s. 5.

Notice to destroy weeds

**6.** Any inspector finding noxious weeds growing on occupied land shall notify the occupant thereof to destroy such weeds within five days from the date of such notification. 1903, Sess. 1, c. 24, s. 6.

Notice to destroy weeds

**7.** Any inspector finding noxious weeds growing on unoccupied lands shall notify the owner by registered letter addressed to his last known address, if any, to destroy such weeds within five days from the date of such notice 1903, Sess. 1, c. 24, s. 7.

Railway lands

**8.** Any inspector finding noxious weeds growing on railway right of way or any unoccupied lands owned by or forming part of the land grant of any railway company shall notify any section foreman or station agent of the railway company by registered letter to destroy such weeds within five days from the date of such notice. 1903, Sess. 1, c. 24, s. 8.

Lands of irrigation company

**9.** Any inspector finding noxious weeds growing in or upon any ditch or right of way of any irrigation company shall notify the manager, superintendent or ditch rider of such company by registered letter to destroy such weeds within five days from the date of such notice. 1903, Sess. 1, c. 24, s. 9.

Penalty for neglecting to destroy weeds

**10.** Any person to whom notice has been duly given under any of the preceding sections who neglects to carry out the directions contained therein shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding $100 and costs. 1903, Sess. 1, c. 24, s. 10.

Procedure where notice disregarded or cannot be given

**11.** In case noxious weeds are not cut down or otherwise destroyed on any land pursuant to any notice given by an inspector under this Ordinance or in case the name or address of the owner of such land is unknown, the said inspector or any person or persons directed by him, may forthwith enter upon the land with the necessary teams and implements and destroy such weeds in such manner as the inspector may see fit. 1903, Sess. 1, c. 24, s. 11.

Recovery of costs of destruction

**12.** The amounts expended in the work performed under the next preceding section may be recovered from the owner or the occupant of the land by action in the name of the attorney general or the inspector or by distress by the inspector or his agent of any chattels on the land. 1903, Sess. 1, c. 24, s. 12.

Amounts unpaid to be added to local improvement assessment

**13.** Any such amount which has not been satisfied on or before the first day of January next following its expenditure shall be added to and form part of the local improvement assessment of such lands in all respects as if it were an original tax and it shall have the same effect on the land and may be recovered in any of the modes available for the recovery of such taxes and the amount so recovered shall be transmitted to the Territorial treasurer and form part of the general revenue fund of the Territories. 1903, Sess. 1, c. 24, s. 13.

Overseer to enter amount against land

**14.** Upon the *secretary* of a local improvement district receiving notice from the commissioner of any amount to be charged under the next preceding section against any parcel of land in his district he shall enter the said amount against the said land and until it is paid enter it in all returns to be made by him in the same manner as unpaid local improvement assessments. 1903, Sess. 1, c. 24, s. 14, and 1904, c. 11, s. 2.

Certificate of commissioner to be prima facie evidence

**15.** A certificate purporting to be signed by the commissioner to the effect that an amount named therein has been expended during any year for the destruction of noxious weeds upon any area of land described shall be *prima facie* evidence that the amount named has been so expended. 1903, Sess. 1, c. 24, s. 15.

### SALE OR DISPOSAL OF GRAIN, ETC., CONTAINING WEED SEED.

Sale, etc., of seed containing weed seed

**16.** No person shall sell or dispose of, or offer for sale or disposal any grain, grass, clover or other seeds intended for the purpose of seed in which there is seed of any noxious weed. 1903, Sess. 1, c. 24, s. 16.

Sale, purchase etc., of cleanings, containing weed seed

**17.** No person shall purchase or sell, barter or otherwise dispose of or remove from any premises any bran, shorts, chopped or crushed grain or cleanings containing seeds of noxious weeds without first destroying the germinating qualities of such seeds:

Provided that matter containing seeds of noxious weeds may be removed from any grain elevator or warehouse for the purpose of sheep feeding or for such other purposes as will insure the complete destruction of the said seeds, under the authority of and subject to such regulations as may be prescribed by the Lieutenant Governor in Council from time to time which regulations shall be published in the official gazette. 1903, Sess. 1, c. 24, s. 17.

Mills, elevators, etc.

**18.** No person shall place outside of any mill, elevator or grain warehouse, except in a securely constructed building, shed or covered bin, any matter containing the seeds of noxious weeds without having first destroyed the germinating qualities of such seeds. 1903, Sess. 1. c. 24, s. 18.

### THRESHING MACHINES TO BE CLEANED BEFORE REMOVAL.

Threshing machines

**19.** Every person in possession or charge of any threshing machine shall thoroughly clean out such machine immediately after threshing at each place and before removing such machine or any part thereof to another place, and shall display in a prominent place upon his machine a card containing this provision, which will be furnished free upon application to the department. 1903, Sess. 1, c. 24, s. 19.

### PENALTIES.

Neglect of duty by inspector

**20.** Every inspector or other officer who neglects to perform any duty placed upon him by this Ordinance shall in respect of each instance of neglect be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $25 and costs. 1903, Sess. 1, c. 24, s. 20.

Violation of Ordinance

**21.** Violation of any provision of this Ordinance for which no penalty is provided shall be an offence and the offender shall on summary conviction be liable to a penalty not exceeding $50 and costs. 1903, Sess. 1, c. 24, s. 21.

Repeal

**22.** Chapter 22 of the Ordinances of 1899 and chapter 31 of the Ordinances of 1900 are hereby repealed. 1903, Sess. 1, c. 24, s. 22.

# OBSERVANCE OF THE LORD'S DAY.

*See* LORD'S DAY PROFANATION.

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# OFFICIAL AUDITORS.

## An Ordinance respecting Official Auditors.

1901, c. 15.
12 June, 1901

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** For the complete examination of the accounts of boards of school trustees, official trustees, village overseers, local improvement district overseers, boards of trustees of irrigation districts and such other accounts as the Lieutenant Governor in Council or any member of the Executive Council is empowered by any Ordinance to inquire into the Lieutenant Governor in Council may appoint one or more official auditors. 1901, c. 15, s. 1. Appointment

**2.** It shall be the duty of every official auditor to examine, check, audit and report upon all accounts which he is appointed to examine in the manner prescribed from time to time by the Lieutenant Governor in Council. 1901, c.15, s. 2. Duties

**3.** Unless it is otherwise provided by Ordinance the Lieutenant Governor in Council shall fix the fees payable to official auditors for any services performed by them. 1901, c. 15. s. 3. Fees

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# OFFICIAL GUARDIANS.

*See* JUDICATURE.

# ORDINANCES.

*See* CONSOLIDATED ORDINANCES 1898.
INTERPRETATION.

# PARTNERSHIPS.

| | |
|---|---|
| *Principal Ordinance (registration)* .... .... | *C.O. 1898, c. 45* |
| *Partnership Ordinance 1899 (to declare and amend the law)* .... .... .... .... .... | *1899, c. 7* |

C.O., 1898, c. 45
15 March, 1899

## An Ordinance Respecting Partnerships.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### REGISTRATION OF COPARTNERSHIPS.

Declaration of partnerships to be filed in certain cases

**1.** All persons associated in partnership for trading, manufacturing or mining purposes in the Territories shall cause to be filed in the office of the registration clerk of the registration district for registration of chattel mortgages and other transfers of personal property in the Territories in which they carry on or intend to carry on business a declaration in writing signed by the several members of such partnership:

Where parties absent

Provided however that if any of the said members be absent from the place where they carry on or intend to carry on business at the time of making such declaration then such declaration shall be signed by the members present, in their own names and also for their absent comembers under their special authority to that effect; such special authority to be at the same time filed with the said registration clerk and annexed to such declaration. C. O. 45, s. 1.

Contents of declaration

**2.** Such declaration shall be in the form A in the schedule to this Ordinance and shall contain the names, surnames, additions and residences of each and every partner or associate as aforesaid and the name, style or firm under which they carry on or intend to carry on such business and stating also the time during which the partnership has existed and is to exist also declaring that the persons therein named are the only members of such copartnership or association. C. O. 45, s. 2.

Time for filing declaration

Changes in firm

**3.** Such declaration shall be filed within six months next after the formation of any such partnership and a similar declaration shall in like manner be filed when and so often as any change or alteration of partnership takes place in the membership of such partnership or in the name, style or firm under which they intend to carry on business or in the place of residence of each member of said firm and every new declaration shall state the alteration in the partnership. C. O. 45, s. 3.

### PERSON USING TRADE NAME. REGISTRATION.

Individual using trade name

4. Every person engaged in business for trading, manufacturing or mining purposes and who is not associated in partnership with any other person or persons but who uses as his business style some name or designation other than his own name or who in such business uses his own name with the addition of "and company" or some other word or phrase indicating a plurality of members in the firm shall cause to be filed as aforesaid a declaration of the fact in writing signed by such person. C. O. 45, s. 4.

Contents of individual declaration

5. The declaration last aforesaid shall contain the name, surname, addition and residence of the person making the same and the name, style or firm under which he carries on or intends to carry on business and shall also state that no other person is associated with him in partnership and the same shall be filed within six months of the time when such style is first used. C. O. 45, s. 5.

### REGISTRATION BOOKS.

Registration books

6. It shall be the duty of the registration clerk aforesaid to keep two alphabetical index books of all declarations of copartnership filed in his office in pursuance of the provisions hereof. C. O. 45, s. 6.

"Firm index book"

7. In one of such books, hereinafter called the "firm index book," the registration clerk shall enter in alphabetical order the style of the respective firms in respect of which declarations have been filed in his office, and shall place opposite each entry the names of the person or persons composing such firm and the date of the receipt by him of the declaration in the manner shown in form B in the schedule to this Ordinance. C. O. 45, s. 7.

"Individual index book"

8. In the second of such books, hereinafter called the "individual index book," the said registration clerk shall enter in alphabetical order the names of the respective members of each of such firms and shall place opposite such entry the style of the firm of which such person is a member and the date of the receipt of the declaration in the manner shown in form C in the schedule to this Ordinance. C. O. 45, s. 8.

### PENALTY FOR NONREGISTRATION.

Failure to comply with Ordinance

9. Each and every member of any partnership or other persons required to register a declaration under the provisions of

Penalty

this Ordinance who fails to comply with the requirements aforesaid shall forfeit the sum of one hundred dollars to be recovered before any court of competent jurisdiction by any person suing as well on his own behalf as on behalf of her Majesty; and half of such penalty shall belong to the general revenue fund of the Territories and the other half to the party suing for the same unless the suit be brought as it may be by the attorney general on behalf of her Majesty only, in which case the whole of the penalty shall belong to the Territories aforesaid. C. O. 45, s. 9.

## EFFECT OF DECLARATION.

Binding effect of declaration

**10.** The allegations made in the declaration aforesaid cannot be controverted by any person who has signed the same nor can they be controverted as against any party not being a partner by a person who has not signed the same but who was really a member of the partnership therein mentioned at the time such declaration was made. C. O. 45, s. 10.

Liability of persons signing declaration

Failure to declare does not exempt from liability

**11.** Until a new declaration is made and filed by him or by his copartners or any of them as aforesaid no such signer shall be deemed to have ceased to be a partner; but nothing herein contained shall exempt from liability any person who being a partner fails to declare the same as already provided and such person may notwithstanding such omission be sued jointly with the partners mentioned in the declaration or they may be sued alone and if judgment is recovered against them any other partner or partners may be sued jointly or severally in an action on the original cause of action upon which such judgment was rendered nor shall anything in this Ordinance be construed to affect the rights of any partners with regard to each other except that no such declaration as aforesaid shall be controverted by any signer thereof. C. O. 45, s. 11.

Partners' rights *inter se*

## DECLARATION OF DISSOLUTION.

Declaration of dissolution

**12.** Upon the dissolution of any partnership any or all of the persons who compose such partnership may sign and file a declaration certifying the dissolution of the partnership in the form D in the schedule to this Ordinance. C. O. 45, s. 12.

## REGISTRATION FEES.

Fees

**13.** The said registration clerk shall be entitled for filing a declaration under this Ordinance to a fee of fifty cents and for searches made in each of such books the following fees and no more:

| | |
|---|---|
| For searching in the firm index book, each firm...... | $0 10 |
| For searching in the individual index book, each name | 10 |
| For each certificate when required................ | 25 |

C. O. 45, s. 13.

## SCHEDULE.

### FORM A.

### DECLARATION OF COPARTNERSHIP.

NORTH-WEST TERRITORIES, } We,

of in (*occupation*) and of (*occupation*) hereby certify:

1. That we have carried on and intend to carry on trade and business as at in partnership under the name and firm of (*or* I *or* we) the undersigned of in hereby certify that I (*or* we) have carried on and intend to carry on trade and business as at in partnership with of and of (*as the case may be*).

2. That the said partnership has subsisted since the day of one thousand

3. And that we (*or* I *or* we) and the said and are and have been since the said day the only members of the said partnership.

Witness our hands at this day of one thousand

### FORM B.

### FIRM INDEX BOOK.

| Style of firm. | Names of persons composing the firm and their residences. | Date of filing declaration. |
|---|---|---|
| John Smith & Co... | John Smith, Moose Jaw.<br>Edward Ives, Regina... | 15 Sept., 1889 |
| James Abbott & Son | James Abbott, Calgary..<br>George Abbott, Calgary. | 10 Sept., 1889 |
| Bernard & Johnson. | Arthur Bernard, Troy..<br>Alexander Johnson, Troy | 1 March, 1889 |

## FORM C.

Individual Index Book.

| Name of individual and residence. | Style of firm of which a member. | Date of filing declaration. |
|---|---|---|
| Abbott, James, Calgary | James Abott & Son. | 10 Sept., 1889 |
| Abbott, George, do | do | do |
| Bernard, Arthur, Troy | Bernard & Johnson. | 1 March, 1889 |
| Johnson, Alex., Troy.. | Bernard & Johnson. | 1 March, 1889 |

## FORM D.

Declaration of Dissolution of Partnership.

North-West Territories, } I,

formerly a member of the firm of carrying on business as at in the of under the style of do hereby certify that the said partnership was on the day of dissolved.

Witness my hand at the day of one thousand

*A.B.*

## PARTNERSHIPS.

AMENDMENT.

1899, c. 7
29th April, 1899

### An Ordinance to declare and amend the Law of Partnership.

[*Assented to April 29, 1899.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Partnership Ordinance 1899."* 1899, c. 7, s. 1.

## INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires: Interpretation

1. The expression "business" includes every trade, occupation or profession; "Business"

2. "Court" shall mean the supreme court of the North-West Territories, and any judge of the court may at any time, whether sitting in chambers or in court, exercise all the powers conferred by this Ordinance upon the court. 1899, c. 7, s. 2. "Court" Judge in chambers

## PARTNERSHIPS GENERALLY.

### *Nature of Partnership.*

**3.** Partnership is the relation which subsists between persons carrying on a business in common with a view of profit. Partnership defined

(2) The relation between members of any company or association who constitute a body corporate under any law in force in the Territories is not a partnership within the meaning of this Ordinance. 1899, c. 7, s. 3.

**4.** In determining whether a partnership does or does not exist, regard shall be had to the following rules: Rules for determining existence of partnership

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof;

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived;

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share, or of a payment contingent on or varying with the profits of a business, does not of itself make him a partner in the business; and in particular:

(*a*) The receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;

(*b*) A contract for the remuneration of a servant or agent of a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;

(*c*) A person being the widow or child of a deceased partner and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;

(*d*) The advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender shall receive a rate of interest varying with the profits or shall receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing, and signed by or on behalf of all the parties thereto;

(*e*) A person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business is not by reason only of such receipt a partner in the business or liable as such. 1899, c. 7, s. 4.

**In case of assignment for benefit of creditors, etc., postponement of rights of person lending or selling in consideration of share of profits**

**5.** In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in the last foregoing section, or of any buyer of a goodwill in consideration of a share of the profits of the business, making an assignment for the benefit of his creditors, entering into an arrangement to pay his creditors less than one hundred cents in the dollar, or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for until the claims of the other creditors of the borrower or buyer for valuable consideration in money or money's worth have been satisfied. 1899, c. 7, s. 5.

**Meaning of "firm" and "firm name"**

**6.** Persons who have entered into partnership with one another are for the purposes of this Ordinance called collectively a firm, and the name under which their business is carried on is called the firm name. 1899, c. 7, s. 6.

*Relations of partners to persons dealing with them.*

Power of partner to bind the firm

**7.** Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership; and the acts of every partner who does any act for carryng on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners, unless the partner so acting has in fact no authority to act for the firm in the particular matter, and the person with whom he is dealing either knows that he has no authority, or does not or believe him to be a partner. 1899, c. 7, s. 7.

Partners bound by acts on behalf of firm

**8.** An act or instrument relating to the business of the firm and done or executed in the firm name or in any other manner showing an intention to bind the firm, by any person thereto authorised, whether a partner or not, is binding on the firm and all the partners:

Provided that this section shall not affect any general rule of law relating to the execution of deeds, instruments or documents affecting land or negotiable instruments. 1899, c. 7, s. 8.

Partner using credit of firm for private purposes

**9.** Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound unless he is in fact specially authorised by the other partner or partners; but this section does not affect any personal liability incurred by an individual partner. 1899, c. 7, s. 9.

Effect of notice that firm will not be bound by acts of partner

**10.** If it has been agreed between the partners that any restriction shall be placed on the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. 1899, c. 7, s. 10.

Liability of partner

**11.** Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner; and after his death his estate is also severally liable in a due course of administration for such debts and obligations so far as they remain unsatisfied but subject to the prior payment of his separate debts. 1899, c. 7, s. 11.

Liability of firm for wrongs

**12.** Where by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm or with the authority of his copartners loss or injury is caused to any person not being a partner in the firm or any penalty is incurred the firm is liable therefor to the same extent as the partner so acting or omitting to act. 1899, c. 7, s. 12.

Misapplication of money or property received for or in custody of firm

**13.** In the following cases, namely:

(*a*) Where one partner acting within the scope of his apparent authority receives the money or property of a third person and misapplies it; and

(*b*) Where a firm in the course of its business receives money or property of a third person and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm;

the firm is liable to make good the loss. 1899, c. 7, s. 13.

Liability for wrongs, joint and several

**14.** Every partner is liable jointly with his copartners and also severally for everything for which the firm while he is a partner therein becomes liable under either of the two last preceding sections. 1899, c. 7, s. 14.

Improper employment of trust property for partnership purposes

**15.** If a partner being a trustee improperly employs trust property in the business or on the account of the partnership no other partner is liable for the trust property to the persons beneficially interested therein:

Provided as follows:

1. This section shall not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and

2. Nothing in this section shall prevent trust money from being followed and recovered from the firm if still in its possession or under its control. 1899, c. 7, s. 15.

Persons liable by "holding out"

**16.** Every one who by words spoken or written or by conduct represents himself or who knowingly suffers himself to be represented as a partner in a particular firm is liable as a partner to any one who has on the faith of any such representation given credit to the firm whether the representation has or has not been made or communicated to the person so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

(2) Provided that where after a partner's death the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner's name as part thereof shall not itself make his executors or administrators, estate or effects liable for any partnership debts contracted after his death. 1899, c. 7, s. 16.

**17.** An admission or representation made by any partner concerning the partnership affairs and in the ordinary course of its business is evidence against the firm. 1899, c. 7, s. 17.

Admissions and representations of partners

**18.** Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm except in the case of a fraud on the firm committed by or with the consent of that partner. 1899, c. 7, s. 18.

Notice to acting partner to be notice to firm

**19.** A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

Liability of incoming and outgoing partners

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors and this agreement may be either expressed or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. 1899, c. 7, s. 19.

**20.** A continuing guaranty given either to a firm or to a third person in respect of the transactions of a firm is in the absence of agreement to the contrary revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transactions of which, the guaranty was given. 1899, c. 7, s. 20.

Revocation of continuing guaranty by change in firm

### *Relations of Partners to one Another.*

**21.** The mutual rights and duties of parties, whether ascertained by agreement or defined by this Ordinance may be varied by the consent of all the partners and such consent may be either express or inferred from a course of dealing. 1899, c. 7, s. 21.

Variation by consent of terms of partnership

**22.** All property and rights and interests in property originally brought into the partnership stock or acquired, whether by purchase or otherwise, on account of the firm or for the purposes and in the course of the partnership business are called in this Ordinance partnership property and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

Partnership property

(2) Provided that the legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof and the general rules of law thereto applicable but in trust so far as necessary for the persons beneficially interested in the land under this section.

(3) Where co-owners of an estate or interest in any land not being itself partnership property are partners as to profits made by the use of that land or estate and purchase other land or estate out of the profits to be used in like manner the land or estate so purchased belongs to them in the absence of an agreement to the contrary, not as partners, but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of the purchase. 1899, c. 7, s. 22.

**Property bought with partnership money**

**23.** Unless the contrary intention appears property bought with money belonging to the firm is deemed to have been bought on account of the firm. 1899, c. 7, s. 23.

**Land held as partnership property to be treated as personal estate**

**24.** Where land or any interest therein has become partnership property it shall unless the contrary intention appears be treated as between the partners (including the representatives of a deceased partner) as personal or movable and not real estate. 1899, c. 7, s. 24.

**Procedure against partnership property for a partner's separate judgment debt**

**25.** After the commencement of this Ordinance a writ of execution shall not issue against any partnership property except on a judgment against the firm.

(2) The court or a judge thereof may in chambers on application by summons by any judgment creditor of a partner make an order charging that partner's interest in the partnership property and profits with payment of the amount of the judgment debt and interest thereon and may by the same or a subsequent order appoint a receiver of that partner's share of profits (whether already declared or accruing) and of any other money which may be coming to him in respect of the partnership and direct all accounts and inquiries and give all other orders and directions which might have been directed or given if the charge had been made in favour of the judgment creditor by the partner or which the circumstances of the case may require.

(3) The other partner or partners shall be at liberty at any time to redeem the interest charged or in case of a sale being directed to purchase the same. 1899, c. 7, s. 25.

**26.** The interest of partners in the partnership property and their rights and duties in relation to the partnership shall be determined subject to any agreement express or implied between the partners by the following rules:

Rules as to interests and duties of partners subject to special agreement

1. All the partners are entitled to share equally in the capital and profits of the business and must contribute equally towards the losses whether of capital or otherwise sustained by the firm;

2. The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him:

   (*a*) In the ordinary and proper conduct of the business of the firm; or

   (*b*) In or about anything necessarily done for the preservation of the business or property of the firm;

3. A partner making for the purpose of the partnership any actual payment or advance beyond the amount of capital which he has agreed to subscribe is entitled to interest from the date of the payment or advance;

4. A partner is not entitled before the ascertainment of profits to interest on the capital subscribed by him;

5. Every partner may take part in the management of the partnership business;

6. No partner shall be entitled to remuneration for acting in the partnership business;

7. No person may be introduced as a partner without the consent of all existing partners;

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners but no change may be made in the nature of the partnership business without the consent of all existing partners;

9. The partnership books are to be kept at the place of business of the partnership (or the principal place if there is more than one) and every partner may when he thinks fit have access to and inspect and copy any of them. 1899, c. 7, s. 26.

**27.** No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. 1899, c. 7, s. 27.

Expulsion of partner

**28.** Where no fixed term has been agreed upon for the duration of the partnership or if a partnership is continued

Retirement from partnership at will

after a fixed term has expired any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners.

(2) Where the partnership has originally been constituted by deed a notice in writing signed by the partner giving it shall be sufficient for this purpose. 1899, c. 7, s. 28.

Where partnership for term continued over, continuance on old terms presumed

**29.** Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement the rights and duties of the partners remain the same as they were at the expiration of the term so far as is consistent with the incidents of a partnership at will.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term without any settlement or liquidation of the partnership affairs is presumed to be a continuance of the partnership. 1899, c. 7, s. 29.

Partners to render accounts, etc.

**30.** Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. 1899, c. 7, s. 30.

Accountability of partners for private profits

**31.** Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership or from any use by him of the partnership property, name or business connection.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner and before the affairs thereof have been completely wound up either by any surviving partner or by the representatives of the deceased partner. 1899, c. 7, s. 31.

Partner competing with firm to account, etc.

**32.** If a partner without the consent of the other partners carries on any business of the same nature as and competing with that of the firm he must account for and pay over to the firm all profits made by him in that business. 1899, c. 7, s. 32.

Rights of assignee of share in partnership

**33.** An assignment by any partner of his share in the partnership either absolute or by way of mortgage, incumbrance or redeemable charge does not as against the other partners entitle the assignee during the continuance of the partnership to interfere in the management or administration of the partnership business or affairs or to require any accounts of the partnership transactions or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled and the assignee must accept the account of profits agreed to by the partners.

(2) In case of a dissolution of the partnership whether as respects all the partners or as respects the assigning partner the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners and for the purpose of ascertaining that share to an account as from the date of the dissolution.

(3) In this section "assignee" shall include "mortgagee" or "incumbrancee." 1899, c. 7, s. 33.

### *Dissolution of Partnership and its Consequences.*

**Dissolution by expiration of notice**

**34.** Subject to any agreement between the partners a partnership is dissolved:

(*a*) If entered into for a fixed term by the expiration of that term;

(*b*) If entered into for a single adventure or undertaking by the termination of that adventure or undertaking;

(*c*) If entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership.

In the last mentioned case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution or if no date is so mentioned as from the date of the communication of the notice. 1899, c. 7, s. 34.

**Dissolution by death, assignment in trust or charge**

**35.** Subject to any agreement between the partners every partnership is dissolved as regards all the partners by the death of any partner or by his assignment of his property in trust for the benefit of his creditors.

(2) A partnership may at the option of the other partners be dissolved if any partner suffers his share of the partnership property to be charged under this Ordinance for his separate debt. 1899, c. 7, s. 35.

**Dissolution by illegality of partnership**

**36.** A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. 1899, c. 7, s. 36.

**Dissolution by the court**

**37.** On application by a partner the court may decree a dissolution of the partnership in any of the following cases:

(*a*) When a partner is shown to the satisfaction of the court to be of permanently unsound mind in which case the application may be made as well on behalf of that partner by his guardian or next friend or person having title to intervene as by any other partner;

(*b*) When a partner other than the partner suing becomes in any other way permanently incapable of performing his part of the partnership contract;

(*c*) When a partner other than the partner suing has been guilty of such conduct as in the opinion of the court regard being had to the nature of the business is calculated to prejudicially affect the carrying on of the business;

(*d*) When a partner other than the partner suing wilfully or persistently commits a breach of the partnership agreement or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;

(*e*) When the business of the partnership can only be carried on at a loss;

(*f*) Whenever in any case circumstances have arisen which in the opinion of the court, render it just and equitable that the partnership be dissolved. 1899, c. 7, s. 37.

**Rights of persons dealing with firm against apparent members of firm**

**38.** Where a person deals with a firm after a change in its constitution he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

(2) The filing of a declaration under section 12 of chapter 45 of *The Consolidated Ordinances 1898* and the publication of the same in at least two consecutive issues of the gazette shall be notice of dissolution as to persons who had not dealings with the firm before the date of filing such declaration and publication.

(3) The estate of a partner who dies or who assigns for the benefit of his creditors or of a partner who not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, assignment or retirement respectively. 1899, c. 7, s. 38.

**Rights of partner to give notice of dissolution**

**39.** On the dissolution of a partnership or retirement of a partner any partner may publicly give notice of the same and may require the other partner or partners to concur for that purpose in all necessary or proper acts if any which cannot be done without his or their concurrence. 1899, c. 7, s. 39.

Continuing authority of partners for purposes of winding up

**40.** After the dissolution of a partnership the authority of each partner to bind the firm and the other rights and obligations of the partners continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise. 1899, c. 7, s. 40.

Rights of partners as to application of partnership property

**41.** On the dissolution of a partnership every partner is entitled as against the other partners in the firm and all persons claiming through them in respect of their interests as partners to have the property of the partnership applied in payment of the debts and liabilities of the firm and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm; and for that purpose any partner or his representatives may on the termination of the partnership apply to the court to wind up the business and affairs of the firm. 1899, c. 7, s. 41.

Appointment of premium when partnership prematurely dissolved

**42.** Where one partner has paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner the court may order the repayment of the premium or of such part thereof as it thinks just having regard to the terms of the partnership contract and to the length of time during which the partnership has continued; unless

(*a*) The dissolution is in the judgment of the court wholly or chiefly due to the misconduct of the partner who paid the premium; or

(*b*) The partnership has been dissolved by an agreement containing no provision for a return of any part of the premium. 1899, c. 7, s. 42.

Rights when partnership dissolved for fraud or misrepresentation

**43.** Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto the party entitled to rescind is without prejudice to any other right entitled:

(*a*) To a lien on or right of retention of the surplus of the partnership assets after satisfying the partnership liabilities for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and is (*b*) To stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and

(*c*) To be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm. 1899, c. 7, s. 43.

Rights of outgoing partner in certain cases to share profits made after dissolution

**44.** Where any member of a firm has died or otherwise ceased to be a partner and the surviving or continuing partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate then in the absence of any agreement to the contrary the outgoing partner or his estate is entitled at the option of himself or his representatives to such share of the profits made since the dissolution as the court may find to be attributable to the use of his share of the partnership assets or to interest on the amount of his share of the partnership assets.

(2) Provided that where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner and that option is duly exercised, the estate of the deceased partner or the outgoing partner or his estate as the case may be is not entitled to any further or other share or profits; but if any partner assuming to act in exercise of the option does not in all material respects comply with the terms thereof he is liable to account under the foregoing provisions of this section. 1899, c. 7, s. 44.

Retiring or deceased partner's share to be a debt

**45.** Subject to any agreement between the partners the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share is a debt accruing at the date of the dissolution or death. 1899, c. 7, s. 45.

Rules for distribution of assets on final settlement of accounts

**46.** In settling accounts between the partners after a dissolution of partnership the following rules shall subject to any agreement be observed:

1. Losses, including losses and deficiencies of capital, shall be paid first out of profits, next out of capital, and lastly if necessary by the partners individually in the proportion in which they were entitled to share profits;

2. The assets of the firm, including the sums if any contributed by the partners to make up losses or deficiencies of capital shall be applied in the following manner and order:

(*a*) In paying the debts and liabilities of the firm to persons who are not partners therein;

(*b*) In paying to each partner ratably what is due from the firm to him for advances as distinguished from capital;

(*c*) In paying to each partner ratably what is due from the firm to him in respect of capital;

(*d*) The ultimate residue if any shall be divided among the partners in the proportion in which profits are divisible. 1899, c. 7, s. 46.

### LIMITED PARTNERSHIPS.

Limited partnerships may be formed

**47.** Limited partnerships for the trasanction of any mercantile, mechanical, manufacturing or other business within the Territories may be formed by two or more persons upon the terms, with the rights and powers and subject to the conditions and liabilities hereinafter mentioned. 1899, c. 7, s. 47.

Of whom to consist

**48.** Such partnerships may consist of one or more persons who shall be called general partners; and of one or more persons who contribute in actual cash payments a specific sum as capital to the common stock, who shall be called special partners. 1899, c. 7, s. 48.

Liability of general and special partners

**49.** General partners shall be jointly and severally responsible as general partners are by law but a special partner shall not be liable for the debts of the partnership except in respect of the amounts by him contributed to the capital. 1899, c. 7, s. 49.

General partners only to transact business, etc.

**50.** The general partners only shall be authorised to transact business and sign for the partnership and to bind the same. 1899, c. 7, s. 50.

Certificate to be signed

**51.** The persons desirous of forming such partnership shall make and severally sign a certificate which shall contain:

Contents of

1. The name or firm under which the partnership is to be conducted;

2. The general nature of the business intended to be transacted;

3. The names of all the general and special partners interested therein distinguishing which are general and which are special partners and their usual places of residence;

4. The amount of capital which each special partner has contributed;

5. The period at which the partnership is to commence and the period at which it is to terminate. 1899, c. 7, s. 51.

Form of

**52.** The certificate shall be in the words or to the effect of form A given in the schedule to this Ordinance and shall be signed by the several persons forming the partnership before a notary public who shall duly certify the same. 1899, c. 7, s. 52.

Where to be filed

**53.** The certificate so signed and certified shall when the principal place of business of the partnership is or is to be situate within the district of a deputy clerk of the supreme court, be filed in the office of such deputy clerk otherwise it shall be filed in the office of the clerk of the said court for the judicial district in which such principal place of business is or is to be situate and the certificate shall be recorded by such clerk or deputy clerk at full length in a book to be kept for that purpose and open to public inspection. 1899, c. 7, s. 53.

To be recorded

Fees for filing and searches

**54.** For filing and recording each such certificate the clerk or deputy clerk shall be entitled to receive the sum of twenty-five cents and shall also be entitled to receive from every person searching in the book where such certificate is so recorded the sum of ten cents for each such search. 1899, c. 7, s. 54.

Partnerships not formed until certificate filed

**55.** No such partnership shall be deemed to have been formed until a certificate has been made, certified, filed and recorded as above directed; and if any false statement is made in such certificate, all the persons interested in the partnership shall be liable for all the engagements thereof as general partners. 1899, c. 7, s. 55.

Certificates of continuance

**56.** Every renewal or continuance of a limited partnership beyond the time originally fixed for its duration shall be certified, filed and recorded in the manner herein required for its original formation; and every such partnership otherwise renewed or continued shall be deemed a general partnership. 1899, c. 7, s. 56.

What alterations to be deemed dissolution

**53.** Every alteration made in the names of the partners, in the nature of the business or in the capital or shares thereof or in any other matter specified in the original certificate shall be deemed a dissolution of the partnership and every such partnership in any manner carried on after any such alteration has been made shall be deemed a general partnership unless renewed as a special partnership according to the provisions of the next preceding section. 1899, c. 7, s. 57.

**58.** The business of a limited partnership shall be conducted under a firm name in which the names of the general partners or some one of them only shall be used; and if the name of a special partner is used in such firm name with his privity he shall be deemed a general partner. 1899, c. 7, s. 58.

Firm name

**59.** Actions in relation to the business of the partnership may be brought and conducted by and against the general partners in the same manner as if there were no special partner. 1899, c. 7, s. 59.

Liability of general partners to actions

**60.** No part of the sum which a special partner has contributed to the capital shall be withdrawn by him or paid or transferred to him in the shape of dividends, profits or otherwise at any time during the continuance of the partnership; but any partner may annually receive lawful interest on the sum so contributed by him if the payment of such interest does not reduce the original amount of the capital; and if after the payment of such interest any profits remain to be divided he may also receive his portion of such profits. 1899, c. 7, s. 60.

Restrictions upon stock of special partners

**61.** If it appears that by the payment of interest or profits to a special partner the original capital has been reduced the partner receiving the same shall be bound to restore the amount necessary to make good his share of the deficient capital with interest. 1899, c. 7, s. 61.

When special partner liable to refund

**62.** A special partner may from time to time examine into the state and progress of the partnership concerns and may advise as to their management; but he shall not transact any business on account of the partnership nor be employed for that purpose as agent, attorney or otherwise; and if he interferes contrary to these provisions he shall be deemed a general partner. 1899. c. 7, s. 62.

Privileges of special partners

**63.** The general partners shall be liable to account to each other and to the special partners for their management of the concern in like manner as other partners. 1899, c. 7, s. 63.

General partners liable to account

**64.** In case of the insolvency of the partnership no special partner shall under any circumstances be allowed to claim as creditor until the claims of all the other creditors of the partnership have been satisfied. 1899, c. 7, s. 64.

Creditors preferred to special partners

No premature dissolution without notice etc.

**65.** No dissolution of a limited partnership by the acts of the parties shall take place previous to the time specified in the certificate of its formation or in the certificate of its renewal, until a notice of such dissolution has been filed in the office in which the original certificate was recorded and has been published once in each week for three weeks in a newspaper published in the district where the partnership has its principal place of business and for the same time in *The North-West Territories Gazette.* 1899, c. 7, s. 65.

Limited partnerships, ss. 2-46 subject to special provisions

**66.** The provisions of the sections of this Ordinance numbered from 2 to 46 both inclusive shall as regards limited partnerships be subject to the special provisions herein contained regarding such partnerships. 1899, c. 7, s. 66.

### SUPPLEMENTAL.

Saving for rules of equity and common law

**67.** The rules of equity and of common law applicable to partnership shall continue in force except so far as they are inconsistent with the express provisions of this Ordinance. 1899, c. 7, s. 67.

Commencement of Ordinance

**68.** This Ordinance shall come into operation on the first day of July one thousand eight hundred and ninety-nine. 1899, c. 7, s. 68.

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## SCHEDULE.

### FORM A.

### CERTIFICATE OF PARTNERSHIP.

We, the undersigned, do hereby certify that we have entered into copartnership under the style or firm of (*B.D.* & *Co.*) as (*Grocers and Commission Merchants*), which firm consists of
(*A.B.*) residing usually at
and (*C.D.*) residing usually at
as general partners; and (*E.F.*) residing usually at
, and (*G.H.*) residing usually at
as special partners, the said (*E.F.*) having contributed $
and the said (*G.H.*) $ , to the capital.

The said partnership commenced on the day of
1 and terminates on the day of
1 .

Dated this day of A. D. 1 .

(*Signed*) *A.B.*
*C.D.*
*E.F.*
*G.H.*

Signed in the presence of me,
*L.M.*,
*Notary Public.*

1899, c. 7.

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## PEDLERS.

*See* AUCTIONEERS, HAWKERS AND PEDLERS.

## PENALTIES.

*See* REMISSION OF PENALTIES.

## PERSONAL PROPERTY.

*See* BILLS OF SALE.
CONDITIONAL SALES OF GOODS.
FACTORS AND AGENTS.
MARRIED WOMEN'S PERSONAL PROPERTY.
SALES OF GOODS.

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# PHARMACEUTICAL ASSOCIATION.

## An Ordinance respecting Chemists and Druggists.

**C.O. 1898, c. 54**
**15 March, 1899**

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Pharmaceutical Association Ordinance."* C. O. 54, s. 1. **Short title**

### THE PHARMACEUTICAL ASSOCIATION.

**"The Pharmaceutical Association of the N.W.T. continued**

**2.** All persons now registered or deemed to be registered under the provisions of Ordinance No. 22 of 1891-92 respecting chemists and druggists and all persons hereafter registered under the provisions of this Ordinance shall constitute the corporation called "The Pharmaceutical Association of the

North-West Territories," and the said association shall be deemed a body politic and corporate with power to sue or be sued and acquire, sell, transfer and deal with real and personal property. C. O. 54, s. 2.

MEETINGS OF ASSOCIATION. COUNCIL.

General meetings

Council

Voting at meetings

**3.** There shall be general meetings of the said association held from time to time as hereinafter mentioned and there shall also be a council to direct and manage the affairs of the said corporation; and the said general meetings and the council shall have the entire direction and management of the said corporation in the manner and subject to the regulations hereinafter mentioned; and at all general meetings and meetings of the council the majority of the members present and having a right to vote thereat respectively shall decide upon the matters propounded to such meetings—the person presiding in case of an equality of votes to have the casting vote. C. O. 54, s. 3.

Council, five members

**4.** The council of the association shall be composed of not more than *seven* members to be elected in accordance with the provisions hereinafter contained. C. O. 54, s. 4, and 1902, c. 7, s. 1.

Duration of office

Resignation

**5.** The members of such council shall be elected or appointed as the case may be for the period of two years but any member may resign his appointment at any time by letter addressed to the president or to the registrar of the council; and upon the death, resignation or removal of any member of the council it shall be lawful for the council to elect and appoint some other person being a member of the association to supply the vacancy so made; and the person so appointed shall be taken in all respects as regards his duration of office to represent the person in whose stead he has been appointed. C. O. 54, s. 5.

Meetings of association

**6.** The association may hold general meetings once in the year and also such special meetings as the council may from time to time think proper; the annual general meeting shall be held on the third Tuesday in the month of June in each year or such other day near thereto as shall be determined by the council; and further upon the recommendation in writing of six members of the association entitled to vote requesting the council to convene a special general meeting of the association for the purpose specified in the requisition; such meeting shall be convened by the president within such reasonable time as the council shall see fit—they first giving such notice thereof as may be required by the bylaws of the corporation and the purpose for which the same is convened. C. O. 54, s. 6.

**7.** The persons qualified to vote at elections of members of the council shall be such persons as are at that time members of the association and the time, place and manner of such elections shall be as laid down by the bylaws of the corporation subject to the provisions of this Ordinance. C. O. 54, s. 7. **Election of members of council**

**8.** No person shall be eligible to be elected a member of the council unless he be registered in pursuance of this Ordinance. C. O. 54, s. 8. **Unregistered person ineligible**

**9.** The charge and conduct of elections shall be under the management of the registrar of the council. C. O. 54, s. 9. **Conduct of elections**

**10.** Every person entitled to vote may vote for *seven* persons. C. O. 54, s. 10, and 1902, c. 7, s. 2. **Votes**

**11.** Such votes shall be given by closed voting papers to be obtained from the registrar prior to the day of election in form A in schedule 1 hereto or to the like effect signed by the voter and delivered to the registrar on any of the twenty days preceding the day of election. Any voting papers delivered to the said registrar by post during the time aforesaid shall be deemed delivered to him. C. O. 54, s. 11. **Method of voting**

**12.** The *seven* persons who have the highest number of votes shall be the members of the council for the two years following the date of such election and until their successors are appointed. C. O. 54, s. 12, and 1902, c. 7, s. 3. **Persons elected Duration of office**

**13.** Any person entitled to vote at any election shall be entitled to be present at the opening of the voting papers at such election. C. O. 54, s. 13. **Voters present at count**

**14.** In case of an equality of votes between two or more persons which leaves the election of one or more of the members of the council undecided, the registrar shall in the presence of the scrutineers forthwith put into a box a number of papers with the names of the candidates having such equality of votes written thereon one for each candidate and the registrar in the presence of the scrutineers shall draw by chance from such ballot box one or more of such ballot papers sufficient to make up the required number and the persons whose names are upon such papers so drawn shall be such members. C. O. 54, s. 14. **Equality of votes**

### OFFICERS.

**15.** The council of the said corporation for the time being shall at their first meeting after the election of the council elect **Officers to be elected**

from among their members a president, a vice president and a registrar and such officers as the council may consider necessary. C. O. 54, s. 15.

## PROPERTY OF ASSOCIATION.

Property of association

**16.** The council of the association shall have the sole control and management of the real and personal property of such association subject to the bylaws thereof:

Sale or mortgage

Provided always that no sale or mortgage of any such property shall be made except with the approbation and concurrence of a general meeting of the members of the said corporation specially called for such purpose. C. O. 54, s. 16.

## BYLAWS, RULES AND REGULATIONS.

General rules and bylaws

**17.** The council shall have power to *fix such fees,* make such bylaws, rules and regulations not inconsistent with the provisions of this Ordinance as they shall deem necessary for the carrying out of the objects of the association and from time to time may amend, revoke or substitute others in their stead; and such *fees,* bylaws, rules and regulations may also be amended, altered or repealed in whole or in part at any annual general meeting of the association provided previous notice be given of the intention so to do, such notice to be given in accordance with the bylaws in force for the time being. C. O. 54, s. 17, and 1902, c. 7, s. 4.

## REGISTER.

Registry to be kept

**18.** It shall be the duty of the registrar to make and keep a correct register in accordance with the provisions hereof of all persons who are registered under the provisions hereof and to enter their qualifications opposite the names of all registered persons who shall have filed a statement of such and from time to time make the necessary alterations in the address of persons so registered. C. O. 54, s. 18.

Persons entitled to admission

**19.** The registrar *upon receipt of the requisite fees* shall admit upon the register of the Pharmaceutical Association of the North-West Territories:

1. Any person possessing a diploma or certificate of admission to practise as a pharmaceutical chemist in any part of her Majesty's dominions by any pharmaceutical association or college of pharmacy empowered by law to grant such diploma or certificate;

2. Any person who shall *on or before the thirty-first day of December, 1902,* produce satisfactory evidence that he has been engaged in the actual practise of the profession of chemist and druggist, or dispensing chemist or apothecary, either as clerk or manager, for at least four years prior to the twenty-fifth day of January, 1892, and who was at that time a resident of the Territories;

3. Any person complying with section 22 of this Ordinance. C. O. 54, s. 19 and 1902, c. 7, s. 5.

Evidence of right to admission

Appeals from registrar

Fraudulent entries

**20.** No names shall be entered in the register except authorised to be registered nor except the registrar is satisfied by proper evidence that the person claiming is entitled to be registered and any appeal from the decision of the registrar may be decided by the council of the association and any entry which shall be proved to the satisfaction of the council to have been fraudulently or incorrectly made may be amended or erased in the register by order of such council. C. O. 54, s. 20.

Certificate of registration

**21.** Upon any person being registered as aforesaid he shall be entitled to receive a certificate in form B in schedule 1 hereto or to the like effect under the corporate seal of the association and signed by the registrar and shall be entitled to receive a similar certificate annually upon payment of a fee to be determined by the council. C. O. 54, s. 21.

### EXAMINATION OF STUDENTS.

Examination of students

**22.** Every candidate for examination shall produce evidence that he has served at least four years in a drug store and shall pass an examination which shall embrace chemistry, pharmacy, botany, *materia medica,* reading and translating prescriptions and practical dispensing; and after passing this examination and producing the required certificates shall be registered a pharmaceutical chemist. C. O. 54, s. 22.

Rules for examinations

**23.** The examination referred to shall take place and be regulated by such rules, regulations or bylaws as may be in force at the time such examination is held; and all candidates for the same shall pay such fees as may be imposed by any such rules, regulations or bylaws. C. O. 54, s. 23.

Examinations

Fees

**24.** The council of the association shall have authority, notwithstanding anything contained in this Ordinance to prescribe the subjects upon which candidates for competency shall be examined and to establish a scale of fees to be paid by persons applying for examination. C. O. 54, s. 24.

## SALE OF POISONS.

Poisons

**25.** The several articles named or described in schedules 2 and 3 hereto shall be deemed to be poisonous within the meaning of the provisions hereof and the council of the association may from time to time by resolution declare that any other article in such resolution named ought to be deemed a poison within the meaning hereof; and thereupon the said association shall submit the same to the approval of the Lieutenant Governor in Council; and if such approval shall be given then such resolution and approval shall be advertised in *The North-West Territories Gazette* and on the expiration of two months from such advertisement the article named in the resolution shall be deemed to be "poison" within the meaning hereof and the same shall be subject to the provisions herein contained. C. O. 54, s. 25.

Sale of poisons

**26.** It shall be unlawful to sell any poison named in the first part of said schedule 2 either by wholesale or retail unless the bottle, vessel, wrapper or cover in which such poison is contained is distinctly labelled with the name of the article and the word "poison": and if sold by retail then also with the name and address of the establishment in which such poison is sold: and it shall be unlawful to sell any poison mentioned in the first part of schedule 2 to any person unknown to the seller unless introduced by some person known to the seller; and on every sale of such article the person actually selling the same shall before delivery make an entry in a book to be kept for that purpose in form C in schedule 1 hereto stating the date of such sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person, if any who introduced him, to which entry the name of the person shall be affixed.

(2) Any person selling the drugs mentioned in schedule 3 hereto shall also comply with the provisions of this section. C. O. 54, s. 26.

## REGISTERED PRACTITIONERS. RESTRICTIONS. PENALTIES.

Rights of registered persons

Fees to be paid

**27.** Any person registered and no other shall be entitled a "pharmaceutical chemist"; and no other person except a pharmaceutical chemist as aforesaid, or his employee or employees shall be authorised to compound prescriptions of legally authorised or other medical practitioners or of other persons; and no person shall be entitled to take part in any of the proceedings of the said association who is in default in respect to any fee payable by him by virtue hereof. C. O. 54, s. 27.

**Prohibitions against non-members**

**28.** It shall be unlawful for any person to keep open shop for retailing, dispensing or componding poisons other than those contained in schedule 3 hereto, or to assume the title "chemist and druggist" or "pharmaceutical chemist" or "druggist" or "pharmacist" or "apothecary" or "dispensing chemist (druggist)" in any part of the North-West Territories unless such person shall be a member of the association hereby incorporated. C. O. 54, s. 28.

**No recovery of charges where Ordinance violated**

**Branch business**

**29.** No person selling any article or articles in violation of the provisions of this Ordinance shall recover any charges in respect thereof in any court of law or equity nor shall any branch drug business be carried on by a pharmaceutical chemist unless he employs in it a duly registered pharmaceutical chemist. C. O. 54, s. 29.

**Penalties**

**30.** Any person transgressing any of the provisions herein contained, or selling any poison in violation thereof, shall for the first offence incur a penalty not exceeding $100 and costs of prosecution; and for each offence subsequent to such conviction a penalty not exceeding $200 and costs of prosecution to be recovered in a summary manner before any justice of the peace. C. O. 54, s. 30.

**Prosecutions**

**Evidence**

**31.** In any prosecution hereunder it shall be incumbent on the defendant to prove that he is entitled to sell or keep open shop for compounding medicines or retailing poisons and to assume the title of chemist and druggist or other like title to the like effect; and the production of a certificate purporting to be under the hand of the registrar and under the seal of the said association showing that he is so entitled shall be *prima facie* evidence that he is so entitled. C. O. 54, s. 31.

### REMOVAL FROM REGISTER.

**Removal from register for improper conduct**

**32.** Upon the resolution of the council of the association being passed declaring that any person, in consequence of his conviction for any offence or offences against the provisions hereof, is in the opinion of such council unfit to be on the register the Lieutenant Governor may direct that the name of such person shall be erased from such register and it shall be the duty of the registrar to erase the same accordingly. C. O. 54, s. 32.

### EXCEPTIONS FROM OPERATION OF ORDINANCE.

**Exceptions in certain cases Medical practitioners, etc.**

**33.** Nothing herein contained shall extend to interfere with the privileges conferred upon physicians and surgeons by any Ordinance relating to the practise of medicine and surgery in

Sale to physicians, druggists or veterinaries

the North-West Territories, and they may be registered as pharmaceutical chemists without undergoing examination *upon payment of the requisite fees and compliance with the rules of the association;* nor shall it prevent any person whatever from selling goods of any kind to any person legally authorised to carry on the business of an apothecary, chemist or druggist, or the profession of a doctor of medicine, physician or surgeon, nor to veterinary surgeons; nor to prevent the members of such professions supplying to their patients such medicine as they may require: and upon the decease of any person legally authorised and actually carrying on the business of chemist and druggist at the time of his death it shall be lawful for the executors, administrators or trustee or trustees of the estate of such persons to continue such business so long only as such business shall be *bona fide* conducted by a pharmaceutical chemist. C. O. 54, s. 33.

Executors of registered chemist

### RETURNS.

General return may be required

**34.** The registrar whenever required by the Lieutenant Governor shall transmit to the Territorial secretary a return certified under oath setting forth all such information and particulars relating to the Pharmaceutical Association as may from time to time be required. C. O. 54, s. 34.

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## SCHEDULE 1.

## FORM A.

NORTH-WEST PHARMACEUTICAL ASSOCIATION.

*Voting Paper for Annual Election, A. D. 19 .*

I, a registered pharmaceutical chemist, vote for the seven persons hereinafter named to form the members of the council of the North-West Territories Pharmaceutical Association:

1.

2.

3.

4.

5.

6.

7.

And I declare that I am entitled to vote at this election and am not in default in payment of my fees to the council.

Dated the day of 190

Witness: 1902, c. 7.

## FORM B.

### Certificate of Registration.

I hereby certify that *C. D.*, being entitled to registration, by having was on the day of A.D. 1 , duly registered as a pharmaceutical chemist and is authorised to carry on the business of chemist and druggist in the North-West Territories of Canada from the day of A.D. 1 , to the day of A.D. 1

(*Signed*) *E.F.*,
*Registrar of the North-West Territories*
(Seal) *Pharmaceutical Association.*

C. O. 54.

## FORM C.

### Poison Sales Register.

| Date | Name and address of purchaser | Name and quantity of poison sold | Purpose for which poison is required | Signature of purchaser | Signature of person introducing purchaser | Signature of seller |
|---|---|---|---|---|---|---|
| | | | | | | |

C. O. 54.

## SCHEDUDE 2.

### List of Poisons.—Part 1st.

Aconite and its preparations.
Arsenic and its preparations.
Belladona and its preparations.
Cantharides.
Corrosive sublimate.
Cyanide of potassium and all metallic cyanides.

Ergot of Rye and its preparations.
Essential Oil of Almonds, unless deprived of prussic acid.
Euphorbium.
Opium and its preparations.
Prussic acid.
Savin and its oil.
St. Ignatius bean.
Strychnine and all its preparations.
Tartar emetic.

### PART 2ND.

Acetate of lead.
Oxalic acid.
Calabar beans.
Carbolic acid.
Chloral hydrate.
Chloroform and ether.
Croton oil and seeds.
Elaterrium, Goulard's extract.
Hellebore.
Henbane and preparations.
Iodine.
Phosphorus.
Red and white precipitate.
Verdigris.
Sulphate of zinc.

C. O. 54.

### SCHEDULE 3.

Tincture aconite in original packages.
Cantharides blister.
Laudanum or paregoric in original packages.
Strychnine in original packages.
Acetate of lead.
Carbolic acid.
Hellebore.
Paris green.
Red precipitate.
Sulphate of zinc.

C. O. 54.

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## PHYSICIANS AND SURGEONS.

*See* MEDICAL PROFESSION.

## POLICE.

*See* CONSTABLES.

## POLICE MAGISTRATES.

*See* MAGISTRATES.

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# POLLUTION OF RUNNING STREAMS.

## An Ordinance to Prevent the Pollution of Running Streams.

C.O. 1898, c. 86
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Depositing filth in streams

**1.** Any person who deposits or causes or allows to be deposited along the bank of any running stream in the Territories or who shall cast or throw into its waters any stable manure or any night soil, carcases, or any other filthy or impure matter or substance of any kind shall be guilty of an offence and on summary conviction for each and every such offence incur a penalty of not less than $5 together with the costs of prosecution; and on nonpayment of such penalty and costs forthwith after conviction be imprisoned in the nearest common gaol for a term not exceeding one month unless such penalty and costs are sooner paid. C. O. 86, s. 1.

Penalty

Banks of streams

**2.** The banks of all running streams within the Territories shall for the purposes of this Ordinance include all lands within fifty feet of ordinary high water mark on either side of such streams. C. O. 86, s. 2.

Sewage

**3.** This Ordinance shall not refer to the discharge of sewer waters from any pipe or drain leading from any dwelling house, hotel or public institution. C. O. 86, s. 3.

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# POUND DISTRICTS.

## An Ordinance respecting Pound Districts.

C.O. 1898, c. 79
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Pound District Ordinance."* C. O. 79, s. 1.

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

"Department"

1. The expression "department" means the department of agriculture;

"Minister"

2. The expression "minister" means the member of the executive council to whom is assigned from time to time the duty of administering the department of agriculture;

"Animal"

3. The expression "animal" means any horse, mule, jack, sheep, goat, neat cattle, swine or goose;

"Trespasser"

4. The expression "trespasser" means any animal which breaks into any ground inclosed by a lawful fence;

"Estray"

5. The expression "estray" means any animal running at large within the limits of any pound district in any period during which animals running at large are by declaration under this Ordinance to be counted estrays or any stallion of the age of one year or upwards or any bull of the age of nine months or upwards or any swine or goose of any age at any time running at large within the limits of any pound district;

"Pound keeper"

6. The expression "pound keeper" means the person for the time being in the authorised charge of any pound;

"Lawful fence"

7. The expression "lawful fence" means any fence declared to be lawful by any Ordinance;

"Justice"

8. The expression "justice" means any justice of the peace;

"Proprietor"

9. The expression "proprietor" means any holder or occupier of land under whatever tenure or any superintendent, overseer, servant or other persons acting for and on behalf of such holder or occupier;

"Owner"

10. The expression "owner" means any person owning any animal or any agent or overseer of any such owner;

"Captor"

11. The expression "captor" means any person seizing or distraining any estray;

"Distrainor"

12. The expression "distrainor" means any person seizing or distraining any trespasser;

"Running at large"

13. The expression "run at large" or "running at large" means without being under control of the owner, either by being securely tethered or in direct and continuous charge of

a herder or by confinement within any building or other inclosure or a fence whether the same be lawful or not;

"Pound district"

14. The expression "pound district" means any district in the Territories constituted under the provisions of this Ordinance. C. O. 79, s. 2.

ORGANISATION OF POUND DISTRICTS.

What districts may be organised and how

3. The Lieutenant Governor in Council may by Order made public by notice in the official gazette constitute any part of the Territories not within the limits of a municipality or a village into a pound district. C.O. 79, s. 3.

Notice to be given

4. Before constituting any pound district a notice of intention to do so shall be published in the official gazette and posted in at least one post office within such proposed pound district or if there be no post office within such district then in the post office nearest thereto at least thirty days prior to making such recommendation.

Hour

(2) Such notice shall be addressed to the postmaster at such post office inclosed in a registered cover and all the requirements of this Ordinance respecting the posting of notices shall be held to be completed at the expiration of twenty-four hours after the first mail carrying such notice is scheduled to reach the post office to which the notice is directed.

Objections, how to be made

(3) If at any time within thirty days after such notice is posted objection is made by a majority of the proprietors of land within such proposed district in form A in the schedule hereto (the facts stated in such objection and the signatures thereto being verified by statutory declaration) the proposed district shall not be constituted; but if no such objection is made within thirty days from the posting of the notice the proposed district may be constituted as hereinbefore provided. C. O. 79, s. 4.

5. The Lieutenant Governor in Council may by Order made public by notice in the official gazette vary or alter the boundaries of or add to or take from any pound district existing hereunder or abolish or discontinue the same. C. O. 79, s. 5.

6. Until it has been otherwise declared or enacted by the council of any municipality or by the voters of any village the pound districts heretofore created under Ordinance No. 21 of 1897 which comprise any portion of such municipality

or village shall be continued hereunder and the pound keepers appointed therefor shall continue to act under and subject to the provisions of this Ordinance. C. O. 79, s. 6.

OPERATION OF ORDINANCE.

Estrays not to run at large

**7.** No animal declared under the provisions of this Ordinance to be estray in any pound district shall be permitted to run at large therein and any such animal when not under control of its owner shall be liable to be impounded.

When bulls are to be estrays

(2) Upon being satisfied as to the desire of a majority of the proprietors of land in any pound district constituted under the provisions of this Ordinance the minister may by notice published in the official gazette and in any other manner that may seem to him necessary declare that any bull otherwise prohibited from running at large shall be counted an estray or not an estray at any season of the year.

Pound districts in towns and villages

(3) On the application of the council of any municipality or the overseer of any village on behalf of the residents of such village within the limits of which municipality or village a pound district has been constituted, the minister may declare any animal to be an estray or not an estray at any season of the year within the limits of such pound district. C. O. 79, s. 7.

Estrays may be impounded

**8.** The proprietor of any land in any pound district may capture any estray found within such pound district and drive such estray to and deliver the same at the nearest accessible pound in the said pound district whether the owner of such estray be known to the captor or not and the said estray may be dealt with in every way as a trespasser may be dealt with under this Ordinance. C. O. 79, s. 8.

Stallions and bulls in pound districts

**9.** No procedure under *The Entire Animals Ordinance* shall be taken with respect to stallions or bulls running at large in any pound district but (if captured) all such stallions or bulls shall be forthwith driven to the nearest accessible pound in such pound district there to be dealt with as trespassers may be dealt with under this Ordinance. C. O. 79, s. 9.

Trespassers may be impounded

**10.** The proprietor of any land surrounded by a lawful fence, in a pound district, upon which land any animal is found trespassing may seize and distrain the same and drive the same to the nearest accessible pound in such pound district and deliver such trespasser to the pound keeper to be impounded and shall at the same time deliver a written statement describing the animal impounded, the name of the owner (if known), the place where such animal was trespassing, the amount of damages claimed and of his reasonable charges for driving the trespasser to and delivering the same to the pound keeper; and the said pound keeper shall impound such trespasser under the provisions of this Ordinance and be responsible for the feed and safe keeping thereof so long as he is legally bound to hold the same; and such pound keeper is empowered to collect the amount of the damages caused by and all charges for the keep and other incidental expenses connected with such trespasser before delivering up the same to the owner thereof. C. O. 79, s. 10.

**11.** Any person acting as inspector, constable or overseer in any municipality or village or the appointee of any such person may take any action or proceedings authorised by this Ordinance on behalf of any proprietor as if by him directed so to do. C. O. 79, s. 11.

**Animal to be placed in authorised pound**

**12.** Any proprietor who shall impound any animal in any pound or place not authorised by this Ordinance shall be guilty of an offence and upon summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $20.

**Temporary impounding**

(2) Any such proprietor upon whose property any animal is found trespassing may (if he knows its owner) temporarily impound the same in any convenient place for a period not exceeding three days and shall within twenty-four hours after such impounding deliver to such owner a written memorandum in like manner as it is hereinbefore enacted shall be delivered to a pound keeper with any trespasser impounded in his pound; and shall feed and maintain such animal while so impounded; and may at the expiration of such time (if not sooner duly released) deliver it to the keeper of the nearest accessible pound; and such proprietor may make a charge for feeding and maintaining such animal and for sending notice not exceeding such as might by law be made by a pound keeper but shall not be entitled to any compensation for damage except for such as was done before the temporary impounding. C. O. 79, s. 12.

**When trespass is committed in certain cases**

**13.** In every case where damage is done to the inclosed lands of any person in any pound district as the result of any animal breaking through or over the fence or fences inclosing the same such animal may be considered and treated as a trespasser within the meaning of this Ordinance if that part

of the fence broken through or over by such animal is a lawful fence although other parts of the inclosing fence may not be lawful; and any animal breaking through or over a division fence in any pound district which its owner or person having charge of such animal is bound to repair and keep up shall be considered and treated as a trespasser within the meaning of this Ordinance although the said fence may not be a lawful fence. C. O. 79, s. 13.

**Lawful fences in certain cases**

**14.** In every case in which more proprietors than one hold lands inclosed by a common outward lawful fence such lands shall for the purposes of this Ordinance be deemed as against all persons outside such general fence to be lawfully fenced but as against each other where no lawful fence stands between them to be uninclosed lands. C. O. 79, s. 14.

**Responsibility of persons in charge of animals doing damage**

**15.** The person in charge of any animal within a pound district shall be liable for any damage caused by such animal under his charge as though such animal were his own property; and the owner of any animal allowed to run at large in any pound district contrary to the provisions of this Ordinance shall be liable for any damage done by such animal although the land whereon such damage was done was not inclosed by a lawful fence. C. O. 79, s. 15.

## APPOINTMENT OF POUND KEEPERS

**All pound keepers to be appointed by minister**

**16.** In any pound district the minister may appoint one or more pound keepers therefor and notice of every such appointment shall be published in the official gazette describing the name and post office address of such pound keeper and the location of the pound:

**Proviso**

Provided that all pounds established or pound keepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and pound keepers appointed under the provisions of this Ordinance and subject to the provisions thereof C. O. 79, s. 16.

**All appointments to terminate on December 31 annually**

**17.** Every appointment of a pound keeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all pound keepers so appointed may at the expiry of each period of twelve months be eligible for reappointment.

**Resignation of pound keeper**

(2) Any pound keeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such pound keeper is appointed. C. O. 79, s. 17.

**18.** Every notice of the appointment or removal of any pound keeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such pound keeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. C. O. 79, s. 18.

Publication of notices

DUTIES OF POUND KEEPERS.

**19.** Every pound keeper shall keep a pound book in a form to be prescribed by the minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the pound keeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West Mounted Police force or any constable free of charge and of any other person upon payment of the sum of ten cents; and every such pound keeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred.

Book to be kept by pound keeper

(2) Every pound keeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. C. O. 79, s. 19.

and handed over to successor

**20.** Every pound keeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the pound keeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every pound keeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any act of himself or his agent. C. O. 79, s. 20.

Pounds to be kept clean

**21.** Every pound keeper shall make such return to the minister relating to the impounding of animals in his pound as may from time to time be required by the minister. C. O. 79, s. 21.

Returns to be made

of the fence broken through or over by such animal is a lawful fence although other parts of the inclosing fence may not be lawful; and any animal breaking through or over a division fence in any pound district which its owner or person having charge of such animal is bound to repair and keep up shall be considered and treated as a trespasser within the meaning of this Ordinance although the said fence may not be a lawful fence. C. O. 79, s. 13.

**Lawful fences in certain cases**

**14.** In every case in which more proprietors than one hold lands inclosed by a common outward lawful fence such lands shall for the purposes of this Ordinance be deemed as against all persons outside such general fence to be lawfully fenced but as against each other where no lawful fence stands between them to be uninclosed lands. C. O. 79, s. 14.

**Responsibility of persons in charge of animals doing damage**

**15.** The person in charge of any animal within a pound district shall be liable for any damage caused by such animal under his charge as though such animal were his own property; and the owner of any animal allowed to run at large in any pound district contrary to the provisions of this Ordinance shall be liable for any damage done by such animal although the land whereon such damage was done was not inclosed by a lawful fence. C. O. 79, s. 15.

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Provided that all pounds established or pound keepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and pound keepers appointed under the provisions of this Ordinance and subject to the provisions thereof C. O. 79, s. 16.

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**17.** Every appointment of a pound keeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all pound keepers so appointed may at the expiry of each period of twelve months be eligible for reappointment.

**Resignation of pound keeper**

(2) Any pound keeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such pound keeper is appointed. C. O. 79, s. 17.

**18.** Every notice of the appointment or removal of any pound keeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such pound keeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. C. O. 79, s. 18.

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**And handed over to successor**

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**Returns to be made**

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**Lawful fences in certain cases**

14. In every case in which more proprietors than one hold lands inclosed by a common outward lawful fence such lands shall for the purposes of this Ordinance be deemed as against all persons outside such general fence to be lawfully fenced but as against each other where no lawful fence stands between them to be uninclosed lands. C. O. 79, s. 14.

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### DUTIES OF POUND KEEPERS.

Book to be kept by pound keeper

**19.** Every pound keeper shall keep a pound book in a form to be prescribed by the minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the pound keeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West Mounted Police force or any constable free of charge and of any other person upon payment of the sum of ten cents; and every such pound keeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred.

And handed over to successor

(2) Every pound keeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. C. O. 79, s. 19.

Pounds to be kept clean

**20.** Every pound keeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the pound keeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every pound keeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any act of himself or his agent. C. O. 79, s. 20.

Returns to be made

**21.** Every pound keeper shall make such return to the minister relating to the impounding of animals in his pound as may from time to time be required by the minister. C. O. 79, s. 21.

of the fence broken through or over by such animal is a lawful fence although other parts of the inclosing fence may not be lawful; and any animal breaking through or over a division fence in any pound district which its owner or person having charge of such animal is bound to repair and keep up shall be considered and treated as a trespasser within the meaning of this Ordinance although the said fence may not be a lawful fence. C. O. 79, s. 13.

**Lawful fences in certain cases**

**14.** In every case in which more proprietors than one hold lands inclosed by a common outward lawful fence such lands shall for the purposes of this Ordinance be deemed as against all persons outside such general fence to be lawfully fenced but as against each other where no lawful fence stands between them to be uninclosed lands. C. O. 79, s. 14.

**Responsibility of persons in charge of animals doing damage**

**15.** The person in charge of any animal within a pound district shall be liable for any damage caused by such animal under his charge as though such animal were his own property; and the owner of any animal allowed to run at large in any pound district contrary to the provisions of this Ordinance shall be liable for any damage done by such animal although the land whereon such damage was done was not inclosed by a lawful fence. C. O. 79, s. 15.

### APPOINTMENT OF POUND KEEPERS

**All pound keepers to be appointed by minister**

**16.** In any pound district the minister may appoint one or more pound keepers therefor and notice of every such appointment shall be published in the official gazette describing the name and post office address of such pound keeper and the location of the pound:

**Proviso**

Provided that all pounds established or pound keepers appointed therefor at the time of the passing of this Ordinance shall be deemed to be the pounds established and pound keepers appointed under the provisions of this Ordinance and subject to the provisions thereof C. O. 79, s. 16.

**All appointments to terminate on December 31 annually**

**17.** Every appointment of a pound keeper made under the provisions of this Ordinance shall terminate on the thirty-first day of December in each year but all pound keepers so appointed may at the expiry of each period of twelve months be eligible for reappointment.

**Resignation of pound keeper**

(2) Any pound keeper wishing to resign his appointment may do so but no such resignation shall take effect until a successor to such pound keeper is appointed. C. O. 79, s. 17.

**18.** Every notice of the appointment or removal of any pound keeper or the establishment or abolition of any pound published in the official gazette of the Territories shall be evidence that such pound keeper or pound has been legally appointed, removed, established or abolished as in the said notice is mentioned. C. O. 79, s. 18.

Publication of notices

DUTIES OF POUND KEEPERS.

**19.** Every pound keeper shall keep a pound book in a form to be prescribed by the minister from time to time and shall make all entries therein as soon after the doing of the several things required to be entered therein as possible and shall not make any entry after any dispute as to the subject matter of such entry shall have arisen; and the said pound book and a copy of this Ordinance which the pound keeper is hereby required to keep shall at all reasonable times be open to the inspection of any justice or member of the North-West Mounted Police force or any constable free of charge and of any other person upon payment of the sum of ten cents; and every such pound keeper shall grant extracts from his pound book to any person requiring the same upon payment of twenty-five cents for each extract not exceeding one hundred words and the sum of ten cents for every subsequent number of words not exceeding one hundred.

Book to be kept by pound keeper

(2) Every pound keeper shall on his removal from office or on the acceptance of his resignation deliver such pound book to the person who may be appointed to receive it. C. O. 79, s. 19.

and handed over to successor

**20.** Every pound keeper shall at his own cost keep the pound to which he is appointed clean and in good repair and shall supply the animals impounded therein with sufficient and wholesome food and water and the pound keeper may send such animals out of his pound at fit times and to fit places for grazing or watering and every pound keeper shall be responsible to the owner of any impounded animals for every loss or damage occasioned by any act of himself or his agent. C. O. 79, s. 20.

Pounds to be kept clean

**21.** Every pound keeper shall make such return to the minister relating to the impounding of animals in his pound as may from time to time be required by the minister. C. O. 79, s. 21.

Returns to be made

### PAYMENT OF CHARGES ON IMPOUNDED ANIMALS.

Charges to be payable to pound keeper

**22.** All charges payable in respect of any impounded animal shall be payable in the first instance to the pound keeper, who shall hold the same subject to the provisions of this Ordinance for the person entitled thereto. C. O. 79, s. 22.

Penalty for improper impounding

**23.** No charges or claim for damage done shall be payable to or recoverable by any person in respect of the trespass of or damage done by any animal who shall impound or detain such animal for upwards of three days in any place not being a pound within the meaning of this Ordinance. C. O. 79, s. 23.

Animals may be released before impounding

**24.** Whenever any animal has been captured or distrained by any person under any of the provisions of this Ordinance for the purpose of impounding the same, if the owner of the animal or some person on his behalf pay or tender to the person seizing or having charge of such animal before the same has been actually impounded the charges for which such animal has then become liable under this Ordinance, the person having charge of such animal shall forthwith deliver up the same to the owner or the person tendering the said charges on his behalf. C. O. 79, s. 24.

Pound keeper to detain all animals impounded

**25.** Every pound keeper shall receive and detain in his custody any animal lodged in his pound until the damages for which such animal was impounded and all lawful fees and charges shall be paid or until he shall receive notice of the decision of the justice as hereinafter provided. C. O. 79, s. 25.

### NOTICE OF IMPOUNDING.

Notices to be given by pound keeper

**26.** If the owner of any impounded animal is known to the pound keeper, the pound keeper shall forthwith deliver a or post to the address of such owner a notice in form B in the schedule hereto.

(2) In case such owner is not known or such owner or person notified shall not within three days after the posting or delivery of such notice appear at the pound and release the animal so impounded by the payment of the lawful fees, mileage rates and claim for damages, the pound keeper shall forward to the department for insertion in two consecutive issues of the official gazette a notice in form B in the schedule hereto. C. O. 79, s. 26.

Copies of all notices to be posted at pound

**27.** Every pound keeper shall without charge therefor in addition to any copies of any notice which he may be required under this Ordinance to post or deliver post a copy of every such notice in a conspicuous place at his pound *and the nearest post office* and shall keep and maintain such notice at his pound during the whole of such time such notice may refer to. C. O. 79, s. 27, and 1900, c. 29, s. 1.

### SALE OF IMPOUNDED ANIMALS.

**28.** When any animal shall not have been released from the pound within twenty days after the notice has been inserted in the official gazette as in section 26 hereof mentioned the said animal shall be sold by public auction after notice of such sale shall have been posted for eight days in three conspicuous places within the pound district (one of which shall be the post office nearest the pound); and at such sale the pound keeper shall be the auctioneer and such sale shall be held at the pound and shall commence at the hour of two o'clock in the afternoon and the pound keeper shall neither in person nor by his agent purchase any animal at such sale or have any interest of any kind in any animal so purchased. C. O. 79, s. 28.

**When impounded animals may be sold**

**Pound keeper not to have interest in sale**

**29.** If more than one animal is impounded on any distress and the owner thereof is known the pound keeper shall not sell any more of such animals after he has realised from the sales sufficient to satisfy the claims for damages, expenses and fees chargeable against the animals and the owner of the animals shall be entitled to those remaining unsold.

**When animals may not be sold**

(2) If the owner of the animals is unknown the pound keeper shall sell all the animals impounded.

(3) The pound keeper shall immediately after such sale send to the department a description of the animal or animals sold, the date of sale, the amount realised and the disposition thereof. C. O. 79, s. 29.

**30.** No pound keeper making a sale under the provisions of any Ordinance shall be liable to a penalty for selling without a license as an auctioneer. C. O. 79, s. 30.

**Pound keeper need not be licensed as auctioneer**

### PROCEEDS OF SALE, HOW DISPOSED OF.

**31.** The proceeds of the sale of any impounded animal sold under the provisions of this Ordinance shall be applicable in payment:

**Disposal of proceeds of sale**

(*a*) Of any costs and charges attending such sale;

(*b*) Of all sustenance fees;

(*c*) To the impounder of such animal of the amount due to him for mileage charges and for the damage done;

and the residue if any shall be paid to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the minister. C. O. 79, s. 31.

**Owners claim to net proceeds**

**32.** Any money paid to the minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence (satisfactory to the minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C. O. 79, s. 32.

## COMPLAINTS OF OWNER.

**What action may be taken by owner**

**33.** The owner of any impounded animal may give notice in writing to the pound keeper that he intends to complain to a justice against the person impounding such animal; and upon receipt of such notice and on deposit with the pound keeper of the amount claimed for damages together with the pound and other authorised fees and charges the pound keeper shall release such animal and shall retain such amount subject to the order of the justice as hereinafter provided.

**How complaint shall be formulated**

(2) Such complaint may be upon one of the following grounds:

(*a*) That the impounding was illegal; or

(*b*) That the damages claimed are excessive; or

(*c*) That the impounding was illegal but that in any event the damages are excessive;

but the justice shall not inquire into any complaint notice of which has not been given. C. O. 79, s. 33.

**Hearing of complaint**

**34.** Within ten days after giving the notice in the last preceding section mentioned the owner may lodge his complaint as set forth in the notice with a justice of the peace who thereupon shall institute the like proceedings as are authorised under part LVIII of *The Criminal Code 1892* for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint; and if the justice:

1. Adjudges that the animal impounded was illegally impounded as claimed the justice shall order the said animal (if not released) to be restored to the owner or (if released)

the money deposited with the pound keeper to be repaid and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the pound keeper is lawfully entitled to; or

2. Finds on a complaint laid as in clause (*b*) of subsection 2 of the last preceding section the amount of damages the impounder has sustained to be less than claimed then the justice shall order the excess and the owner's costs of the proceedings to be paid to the owner by the pound keeper out of the money paid in by the owner; and if no money has been paid in by the owner the justice shall order the payment forthwith of the amount of the damages so fixed less the costs of the proceedings and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

3. Adjudges that the animal impounded was legally impounded or that the amount of the damage sustained was not less than the amount claimed by the impounder then the justice shall make an order for the payment forthwith of the amount claimed and all pound and other authorised fees together with the costs of the proceedings; and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

4. Finds on complaint laid as in clause (*c*) of subsection 2 of the last preceding section that the animal was legally impounded but the damages sustained by the impounder were less than claimed the justice shall make an order as directed by paragraph 2 of this section but shall not allow costs to either party and proceedings shall be taken on any such order as provided in such paragraph. C. O. 79, s. 34.

**Owner's remedies at common law**

**35.** Nothing in this Ordinance contained shall deprive the owner of any animal impounded of any action, remedy or right that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded:

**Proviso**

Provided always that if any action be brought against a pound keeper for anything done by him under this Ordinance he may plead not guilty to such action; and if on the trial of such action it is made to appear that the said pound keeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such pound keeper judgment shall then be given for him with costs. C. O. 79, s. 35.

Damages may be claimed by action in competent court

**36.** Nothing herein contained shall prevent the owner of any lands trespassed upon or of any property destroyed from waiving the rights created by this Ordinance and bringing his action in any competent court in consequence of any trespass. C. O. 79, s. 36.

OFFENCES AND PENALTIES THEREFOR.

Penalties pound keepers are liable to for—

**37.** If any pound keeper:

Impounding

1. Impounds or assists or incites or employs any person to impound any animal in any district unless such animal was an estray or was trespassing upon the pound keeper's own land in the district surrounded by a lawful fence;

Purchasing impounded animals

2. Purchases in person or by his agent or has any interest of any kind in any animal sold by auction at a pound of which he is at the time of such sale the pound keeper;

Making unauthorised charges

3. Demands or receives any sum for pound notices, sustenance and other fees and charges not authorised by this Ordinance;

Not paying over moneys

4. Fails to pay over any money held by him under the provisions of this Ordinance for any person after payment of the same has been demanded by or on behalf of such person;

Neglecting to care for impounded animals

5. Neglects to provide food and water for any animal or works or uses the same in any manner while so impounded:

Milking cows

Provided that no pound keeper shall be liable for any penalty for milking or allowing to be milked any cow while such cow is impounded;

Not keeping books

6. Omits or neglects to keep books and to make entries therein as required by this Ordinance or makes any incorrect or untrue entry in such books;

Impounding healthy with diseased animals

7. Allows any animal infected with any contagious or infectious disease to be in the same inclosure with any impounded animal not so affected;

Not giving proper notice

8. Fails to give any notice required by this Ordinance;

Causing damage by neglect

9. Neglects to do anything required by this Ordinance to be done whereby damage is incurred by any person;

he shall in addition to any civil liability which he may incur by reason thereof be guilty of an offence and liable on summary conviction to a penalty not exceeding $100. C. O. 79, s. 37.

Burden of proof that animals are cared for, on pound keeper

**38.** When any pound keeper is charged with neglecting to provide sustenance for any animal impounded the burden of proving that proper sustenance was provided for such animal shall be on such pound keeper and when any pound keeper is charged with losing any impounded animal through negligence if it be proved that such animal was impounded in the custody of such pound keeper such animal shall be deemed to have been lost through his negligence unless such pound keeper shall prove the contrary. C. O. 79, s. 38.

**39.** If any person commits any of the following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100:  Penalties

1. Rescues or attempts to rescue or interferes with any animal impounded or seized for the purpose of being impounded;  Rescuing impounded animal

2. Destroys or injures or attempts to destroy or injure any pound;  Destruction of pound

3. Illegally impounds any animal;  Illegal impounding

4. Leaves open any gate or lets down any bars or makes a gap in any fence for the purpose of permitting any animal to trespass or otherwise causes any animal to trespass. C. O. 79, s. 39.  Causing animals to trespass

FEES.

**40.** The following and no other shall be the fees allowed by this Ordinance in connection with animals impounded within any pound district:  Authorised fees

1. To the proprietor of any land trespassed upon or other property injured by any animal or the proprietor or person taking any estray for driving and delivering such animal to the pound keeper his reasonable expenses;  Expenses for driving animals to pound

2. To such proprietor for capturing and impounding any stallion of the age of one year and upwards or any bull of the age of nine months and upwards a fee of $5;  Capturing stallion or bull

3. To such proprietor for any damage done by any animal an amount not to exceed that mentioned in the statement of claim delivered to the owner or pound keeper with the animal when impounded;  Damages

4. To such proprietor for notifying the owner or for every day any animal is lawfully detained before being placed in the pound such fees for making such notice and for the maintenance of such animal as a pound keeper may be entitled to charge for like services;  Giving notice and temporary impounding

5. To the pound keeper to provide for the care and sustenance of each animal for each day such animal is impounded as follows:  Sustenance of impounded animals

For each stallion or bull twenty-five cents;
For each other horse, mule, jackass or head of cattle fifteen cents;
For each sheep, goat or swine five cents;

**Notice to owner** 6. To the pound keeper for notifying owner of animal impounded ten cents;

**Notice to department** 7. To the pound keeper for forwarding notification to department for insertion in the official gazette ten cents;

**Notices posted in district** 8. To the pound keeper for posting notices of animals impounded each such notice to include all animals impounded at one distress or seizure $1 and the actual cost of newspaper **Advertising** advertising not to exceed $1 when incurred;

**Notices of sale** 9. To the pound keeper for posting notices of sale each such notice to include all animals impounded at one distress or seizure $1;

**Mileage** 10. To the pound keeper for each mile necessarily travelled in the performance of his duty ten cents;

**Sale charges** 11. To the pound keeper for selling impounded animals and applying the proceeds as directed by this Ordinance $2.50 per centum commission upon the amount realised on the sale. C. O. 79, s. 40.

## SCHEDULE.

### FORM A.

To the Lieutenant Governor in Council.

We, the undersigned, being proprietors of land as defined by clause 9 of section 2 of *The Pound District Ordinance* in (*here describe the district proposed to be constituted as a pound district*) hereby record our objection to the provisions of the said Ordinance being enforced within the said District:

| NAME | LAND OWNED OR OCCUPIED. | | | | |
|---|---|---|---|---|---|
| | Quarter | Section | Towns'p | Range | West Meridian |
| | | | | | |

I, *A.B.*, of (*post office address*) do solemnly declare:

1. That the total number of persons in the area described in the foreging statement of objection being holders or occu-

piers of land under whatever tenure, or superintendents, overseers or other duly authorised persons acting for or on behalf of such holders or occupiers is (*here insert the total number of proprietors in the proposed pound district as defined by clause 9 of section 2 of The Pound District Ordinance*);

2. That I was personally present and did see each of the (*number of persons signing the statement*) persons whose names are subscribed thereto sign the said statement:

3. That each of the (*number of persons signing the statement*) persons signing the statement is qualified to do so by virtue of being the holder or occupier of land under whatever tenure, or a superintendent, overseer or other duly authorised person acting for or on behalf of such holder or occupier of land within the proposed pound district:

4. That each person signing the said statement before so doing was cognisant of the contents thereof.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of *The Canada Evidence Act 1893*.

(*Signature of person making declaration.*)

Declared before me
at
this day
of 1

(*Signature of person administering declaration*).

C.O. 79, Form A.

## FORM B.

To (*name of owner or Department of Agriculture as the case may be.*)

Notice is hereby given under section 26 of *The Pound District Ordinance* that (*description of animal impounded*) was impounded in the pound kept by the undersigned on the (*description of quarter section or other place where pound is located*) on day the day of 1 .

(*Signature of pound keeper.*)

C.O. 79, Form B.

# PRAIRIE AND FOREST FIRES.

C.O. 1898, c. 87
15 March, 1899

## An Ordinance for the Prevention of Prairie and Forest Fires.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Prairie Fires Ordinance."* C. O. 87, s. 1.

### PROVISIONS AGAINST KINDLING FIRES.

Causing prairie fires

**2.** Any person who shall either directly or indirectly, personally or through any servant, employee or agent:

(*a*) Kindle a fire and let it run at large on any land not his own property;

(*b*) Permit any fire to pass from his own land; or

(*c*) Allow any fire under his charge, custody or control or under the charge, custody or control of any servant, employee or agent to run at large;

Penalty

shall be guilty of an offence and shall on summary conviction thereof be liable to a penalty of not less than $25 and not more than $200 and in addition to such penalty shall be liable to civil action for damages at the suit of any person whose property has been injured or destroyed by any such fire.

(2) *If a fire shall be caused by the escape of sparks or any other matter from any engine or other thing it shall be deemed to have been kindled by the person in charge or who should be in charge of such engine or other thing but such person or his employer shall not be liable to the penalties imposed by this section if in the case of stationary engines the precautions required by section 12 have been complied with and there has been no negligence in any other respect or in the case of railway or other locomotive engines such engine is equipped with a suitable smoke stack netting and ash pan netting in good repair and kept closed and in proper place and in the case of railway engines where the line of railway passes through prairie country there is maintained for a distance of at least three miles continuously in each direction from the point at which the fire starts on each side of such line of railway and not less than two hundred nor more than four hundred feet therefrom*

*a good and sufficient fireguard of ploughed land not less than sixteen feet in width kept free from weeds and other inflammable matter and the space between such fireguard and such line of railway is kept burned or otherwise freed from the danger of spreading fire and there has been no negligence in any other respect.*

(3) *For the purpose of ploughing any fireguard as in the next preceding subsection provided and of freeing from inflammable matter the land between such fireguard and the line of railway any railway company is hereby authorised to enter upon any uncultivated or unoccupied land without incurring any liability therefor provided that no unnecessary damage shall be done.* C. O. 87, s. 2; 1903, Sess. 1, c. 25, s.1, and 1903, Sess. 2, c. 30, s. 1.

### CAMP OR BRANDING FIRES.

**Camp or branding fires, extinguishment**

**3.** Any person who kindles or is a party to kindling a fire in the open air for camping or branding purposes and who leaves the same without having extinguished it shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100. C. O. 87, s. 3.

### CLEARING LAND.

**Fireguards in certain cases**

**4.** No person shall directly or indirectly, personally or by any servant, agent or employee kindle on any land a fire for the purpose of guarding property, burning stubble or brush or clearing land unless the land on which the fire is started is at the time it is started completely surrounded by a fireguard not less than twenty feet in width consisting of land covered with snow or water or so worn, graded, ploughed, burned over or covered with water as to be free of inflammable matter and any person kindling a fire for such purpose shall during the whole period of its continuance cause it to be guarded by three adult persons provided with proper appliances for extinguishing prairie fire.

(2) Any person contravening this section shall be guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding $100. C. O. 87, s. 4.

### FIRES BY RAILWAY EMPLOYEES

**Railway companies and employees**

**5.** Nothing in this Ordinance shall prevent any railway company or its employees from burning over the land held by it under its right of way and the land adjoining the same to an extent not exceeding three hundred feet in width on each side of the centre line of the railway.

(2) Every person causing, commencing or in charge of such burning shall cause the same during the whole period of its continuance to be watched and guarded by at least four men provided with suitable appliances for extinguishing prairie fire and in default thereof shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100.

(3) This section shall not relieve any person from liability under this Ordinance if any fire so started shall escape or run at large. C. O. 87, s. 5.

### SPRING BURNING.

**Fires before 7th May**

6. Nothing herein contained shall prevent any person from kindling fire before the seventh day of May in any year for the purpose of clearing any area of land not exceeding three hundred and twenty acres if such land is completely surrounded by a fireguard not less than ten feet in width consisting of land covered with snow or water or being so worn, graded, ploughed, burned over or covered with water as to be free from inflammable matter.

(2) Any person so kindling a fire shall cause it to be guarded during the whole period of its continuance by three adult persons provided with proper appliances for extinguishing prairie fire and should such fire be left without being so guarded or be allowed to escape such person shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $100. C. O. 87, s. 6.

### FIRES BY LOCAL IMPROVEMENT OVERSEERS.

**Overseers of local improvement districts, exception**

7. Nothing in this Ordinance contained shall prevent the overseer of any local improvement district from kindling a fire for the purpose of making a fireguard but the area which it is proposed to burn must be completely inclosed by a fireguard at least ten feet in width such as is described in section 6 hereof and such fire so kindled must during the whole period of its burning be guarded by such number of men provided with proper appliances for extinguishing prairie fire, not being less than four men, as will be reasonably sufficient to control such fire and if the precautions hereby required are not taken or if such fire should escape and run at large such overseer shall be deemed guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding $100. C. O. 87, s. 7.

### PROSECUTIONS.

**8.** It shall not be necessary that any prosecutor or complainant shall in any information or complaint for an offence under this Ordinance negative any exemption, exception, proviso or condition herein contained or prove any such negative at the hearing or trial but the accused person may prove the affirmative thereof in his defence if he wishes to avail himself of it. C. O. 87, s. 8. **Burden of proof Negativing exceptions**

### RIGHTS OF ACTION PRESERVED.

**9.** Nothing in this Ordinance shall bar or prevent any person from bringing any action against any person to which he may otherwise be entitled. C. O. 87, s. 9. **Rights preserved**

### FIRE GUARDIANS.

**10.** The commissioner of agriculture may appoint fire guardians having the powers of constables to enforce the provisions of this Ordinance and all justices of the peace, all members of the North-West Mounted Police force and all overseers of local improvement districts shall be *ex officio* fire guardians. C. O. 87, s. 10. **Fire guardians**

**11.** Any fire guardian may order any grownup male person under sixty years of age (other than postmasters, railway station agents, members of the medical profession, telegraph operators, conductors, engineers, brakesmen, firemen or trainmen) residing or then being within ten miles of a prairie fire or within fifteen miles of a bush fire to proceed at once to the locality of such fire and assist in extinguishing it; and any person neglecting or refusing without lawful excuse to obey any such order shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $5. C. O. 87, s. 11. **Powers of fire guardians**

### THRESHING ENGINES.

**12.** The following provisions shall be observed in and about the management and operation of engines used for threshing *and other purposes but shall not apply to railway locomotive engines or engines enclosed in a suitable building*: **Management and operation of threshing engines**

1. The engine shall not be placed for the purpose of working so that any part thereof will be within thirty feet from any building or stack;

2. A metal pan of adequate size shall be placed under the engine as a receptacle for cinders and ashes and such metal pan shall be kept filled with water;

(*c*) To the impounder of such animal of the amount due to him for mileage charges and for the damage done;

and the residue if any shall be paid to the owner of such animal or (if not claimed at the time of sale by any person entitled thereto) to the minister. C. O. 79, s. 31.

Owners claim to net proceeds

**32.** Any money paid to the minister under the provisions of the section next preceding shall be paid over to the owner of the animal sold on evidence (satisfactory to the minister or other officer appointed to examine into the same) being furnished and application therefor being made to the Lieutenant Governor within twelve months from the date of the sale; otherwise such money shall form part of the general revenue fund. C. O. 79, s. 32.

### COMPLAINTS OF OWNER.

What action may be taken by owner

**33.** The owner of any impounded animal may give notice in writing to the pound keeper that he intends to complain to a justice against the person impounding such animal; and upon receipt of such notice and on deposit with the pound keeper of the amount claimed for damages together with the pound and other authorised fees and charges the pound keeper shall release such animal and shall retain such amount subject to the order of the justice as hereinafter provided.

How complaint shall be formulated

(2) Such complaint may be upon one of the following grounds:

(*a*) That the impounding was illegal; or

(*b*) That the damages claimed are excessive; or

(*c*) That the impounding was illegal but that in any event the damages are excessive;

but the justice shall not inquire into any complaint notice of which has not been given. C. O. 79, s. 33.

Hearing of complaint

**34.** Within ten days after giving the notice in the last preceding section mentioned the owner may lodge his complaint as set forth in the notice with a justice of the peace who thereupon shall institute the like proceedings as are authorised under part LVIII of *The Criminal Code 1892* for justices making orders for the payment of money; and upon hearing the complaint the justice may determine the matter of such complaint; and if the justice:

1. Adjudges that the animal impounded was illegally impounded as claimed the justice shall order the said animal (if not released) to be restored to the owner or (if released)

the money deposited with the pound keeper to be repaid and in either event the justice shall order the impounder to pay the costs of the proceedings and all fees the pound keeper is lawfully entitled to; or

2. Finds on a complaint laid as in clause (*b*) of subsection 2 of the last preceding section the amount of damages the impounder has sustained to be less than claimed then the justice shall order the excess and the owner's costs of the proceedings to be paid to the owner by the pound keeper out of the money paid in by the owner; and if no money has been paid in by the owner the justice shall order the payment forthwith of the amount of the damages so fixed less the costs of the proceedings and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

3. Adjudges that the animal impounded was legally impounded or that the amount of the damage sustained was not less than the amount claimed by the impounder then the justice shall make an order for the payment forthwith of the amount claimed and all pound and other authorised fees together with the costs of the proceedings; and in default of such payment the animal impounded shall be sold and the proceeds applied as directed by this Ordinance; or

4. Finds on complaint laid as in clause (*c*) of subsection 2 of the last preceding section that the animal was legally impounded but the damages sustained by the impounder were less than claimed the justice shall make an order as directed by paragraph 2 of this section but shall not allow costs to either party and proceedings shall be taken on any such order as provided in such paragraph. C. O. 79, s. 34.

**Owner's remedies at common law**

**35.** Nothing in this Ordinance contained shall deprive the owner of any animal impounded of any action, remedy or right that he may have at common law or otherwise by reason of the same being unlawfully seized, distrained or impounded:

**Proviso**

Provided always that if any action be brought against a pound keeper for anything done by him under this Ordinance he may plead not guilty to such action; and if on the trial of such action it is made to appear that the said pound keeper on demand being made on him therefor gave to the plaintiff or his agent the name of the person who drove the animal to the pound and that he in all respects acted within his duties and powers as such pound keeper judgment shall then be given for him with costs. C. O. 79, s. 35.

## PROTECTION OF GAME.

*See* GAME PROTECTION.

## PUBLIC ACCOUNTS.

*See* TREASURY DEPARTMENT.

## PUBLIC ADMINISTRATORS.

*See* JUDICATURE.

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# PUBLIC HEALTH.

1902, c. 4
19 April, 1902

## An Ordinance respecting Public Health.

[*Assented to April 19, 1902.*]

1907. cap. 22
cap.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The Public Health Ordinance."* 1902, c. 4, s. 1.

### INTERPRETATION.

**"Interpretation"**

**2.** In this Ordinance unless the context otherwise requires:

**"House"**

(*a*) The expression "house" means any place used as a dwelling;

**"Contagious or infectious disease"**

(*b*) The expression "contagious or infectious disease" includes small pox, chicken pox, scarlatina, measles, German measles, diphtheria, Asiatic cholera and any such other disease as may hereafter be declared contagious or infectious by the Lieutenant Governor in Council;

**"Infected"**

(*c*) The expression "infected" means that condition of a person or thing which is the effect of exposure to any contagious or infectious disease or contact with anything which has been so exposed under such circumstances as make it possible that such disease may be spread because of such exposure or contact;

**"Minister"**

(*d*) The expression "minister" means the commissioner of agriculture or such other member of the executive council as the Lieutenant Governor may direct to administer this Ordinance;

(*e*) The expression "medical practitioner" means any legally qualified medical practitioner. 1902, c. 4, s. 2.

**"Medical practitioner"**

PRECAUTIONS AGAINST CONTAGION.

**3.** Any person who:

**Certain offences defined**

(*a*) Has become infected or who has control as parent, guardian or master of anyone who has become infected; or who has possession or control of anything which has become infected and who does or causes or permits to be done any act whereby any other person is or may become exposed to infection or who refuses or neglects to cause such disinfection of any such person or thing as is herein prescribed; or who

(*b*) Being occupant of any infected house causes or permits to enter therein any person who is not a medical practitioner or other necessary attendant on the sick or a person acting under instructions from any health officer; or who,

(*c*) Not being an inmate of any infected house or a resident of any quarantined district or a medical practitioner or other necessary attendant on the sick or a person acting under instructions from any health officer knowingly enters any infected house or quarantined district; or who,

(*d*) Being a physician in attendance on any infected person fails to take such precautions for the disinfection of his person and clothing or for the prevention of infection as are prescribed in the schedule hereto; or who,

(*e*) Being a nurse or other person charged with the care or nursing of any infected person or of any person ill of typhoid fever refuses or neglects to take such measures respecting the disinfection and disposal of the discharges from any such person as are described in the schedule hereto; or who

(*f*) Being owner or tenant of any infected house either by himself or his agent knowingly offers for sale or hire such house or any part thereof without first causing it to be disinfected as prescribed in the schedule hereto; and for the purposes of this section a house shall be deemed to be let for hire to any part of which any person is admitted as a boarder or lodger; or who, (*g*) Being the parent or guardian of any pupil in attendance at any school who is residing in any house which has become infected, or who has whooping cough, or being the proprietor of any house in which any such pupil is boarded or lodged and which has become infected, thereafter allows such pupil to attend any school without first delivering to the teacher of such school a medical practitioner's certificate certifying that the disinfection prescribed in the schedule hereto has been done under his direction both as to the person and clothing of the pupil and as to the house in which it resides or is boarded or lodged; or who,

(*h*) Having been exposed to the infection of small pox fails to remain in quarantine for a period of twenty days after having been so exposed and to have his person and clothing disinfected as prescribed in the schedule to this Ordinance;

shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $100 and costs of prosecution or to imprisonment for a period not exceeding three months or to both fine and imprisonment:

Provided that any inmate of any infected house may do whatever may be necessary to procure medical or other aid in any emergency:

Provided that any healthy adult inmate of any house infected with measles, German measles, diphtheria or scarlatina may under the direction of a medical practitioner be disinfected as to his person and clothing as prescribed in the schedule hereto and may thereupon be allowed to change his place of abode: and

Provided that any healthy adult inmate of any house infected with measles, German measles or chicken pox, not being a school teacher, may when isolation of the case or cases can be maintained in a separate room or rooms after disinfection under the direction of a medical practitioner as prescribed in the schedule hereto and with his permission be allowed to come and go to his house and carry on his ordinary vocation:

Provided that any person who has been exposed to the infection of small pox who has been successfully vaccinated subsequent to such exposure or who holds a certificate of a medical practitioner certifying that he has satisfied such medical practitioner that he has been successfully vaccinated within a period of three years immediately prior to such exposure need not remain in quarantine as provided in clause (*h*) of this section.

**Infected person or thing to be isolated**

(2) The medical practitioner in attendance or any health officer may order the removal of any infected person or thing to any hospital, pesthouse or any isolated building or tent provided for that purpose. 1902, c. 4, s. 3.

**Notice of disease to be affixed to house**

**4.** Whenever any contagious or infectious disease occurs in any house the occupant shall forthwith affix and shall during the whole period of infection keep affixed to the outside of every outer door of such house a written notice of a size not less than four inches by six inches bearing the name of the disease with which such house is infected.

(2) Any person refusing or neglecting to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $50 and costs of prosecution. 1902, c. 4, s. 4.

**Instructions by medical practitioner**

**5.** Whenever any medical practitioner is in attendance on a case of contagious or infectious disease in any house he shall give the occupant or owner written notice that he must put up a written notice on every outer door of his house and keep it there until he is authorised to remove it by the medical practitioner or health officer and also shall give such occupant or owner as full written instructions as to the quarantine precautions to be taken in the case as he deems expedient.

(2) Any such occupant or owner refusing or neglecting to comply with such notice or instructions shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $50 and costs of prosecution. 1902, c. 4, s. 5.

**Medical practitioner to inspect premises where infected person resides**

**6.** Any medical practitioner attending any persons ill of typhoid fever not within the limits of any city or town shall inspect the premises where such person is so ill and if he should have reason to believe that the water supply thereof has become contaminated by reason of any cesspool or privy pit being adjacent thereto he shall notify the owner or occupant of such premises to cause immediate removal of the contents thereof and the subsequent disinfection and filling up with earth of such cesspool or privy pit.

**Penalty**

(2) Any medical practitioner refusing or neglecting to comply with the provisions of this section shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $50 and costs of prosecution.

**Penalty for neglecting to obey order**

(3) Any person refusing or neglecting to obey an order or notice given pursuant to the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $50 and costs of prosecution. 1902, c. 4, s. 6.

## SANITARY INSPECTORS AND HEALTH OFFICERS.

**Appointment of sanitary inspector or health officer**

7. The minister may at any time appoint a health officer or sanitary inspector to inspect and report on the sanitary condition of any premises not within the limits of any city or town or to investigate reported cases of contagious or infectious diseases.

(2) It shall be the duty of such officer or inspector subject to the instructions of the minister to prosecute any person whom he may have reason to believe guilty of an offence under any of the provisions of this Ordinance. 1902, c. 4, s. 7.

**Power to act where public health endangered**

8. Any health officer or sanitary inspector may enter into and upon any premises and examine such premises; and if upon such examination he finds that the premises are in a filthy or unclean state or that any matter or thing is there which in his opinion may endanger the public health he may order the proprietor or occupant of the premises to cleanse and remove forthwith what is found there; and in case the proprietor or occupant of the premises neglect or refuse to obey his instructions such health officer or sanitary inspector may call to his assistance any persons he may think fit and with such persons may enter on the premises and cleanse the same and remove therefrom and destroy what in his opinion it is necessary to remove or destroy for the preservation of the public health.

**Reports to be made**

(2) Any action taken by a health officer or sanitary inspector under the next preceding subsection shall be forthwith reported fully to the minister.

**Prosecution for neglect to obey orders**

(3) Any proprietor or occupant neglecting or refusing to obey any order given by any health officer or sanitary inspector under the first subsection to this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding $10 and costs of prosecution.

(4) In the case of any prosecution for neglect or refusal to obey any order given by a health officer or sanitary inspector under the provisions of the first subsection to this section the justice of the peace who tries the case shall on conviction in addition to any penalty which he may impose upon any such proprietor or occupant for such neglect or refusal order that the whole of the cost of doing, removing or destroying whatever is done, removed or destroyed in the interest of the public safety shall be paid by the person so convicted to the health officer or sanitary inspector. 1902, c. 4, s. 8.

**Removal of persons from certain premises**

9. Whenever a disease of a malignant and fatal character is discovered in any house and such house is situated in an

unhealthy or crowded place or is in a filthy or neglected state or is inhabited by too many persons the health officer having jurisdiction in the place in which it is situate may compel the inhabitants of such house to remove therefrom and may place them in some more healthful situation under good shelter until measures can be taken for the immediate cleansing, ventilation, purification or disinfection of such house. 1902, c. 4, s. 9.

### QUARANTINE DISTRICTS.

Proclamation of quarantine district

**10.** The minister may declare any area or district in quarantine because of the existence therein of any epidemic of contagious or infectious disease. 1902, c. 4, s. 10.

Powers of health officers in quarantine district

**11.** Where any quarantine district is established a health officer or sanitary inspector shall have power:

(*a*) To prevent the departure or removal of persons or conveyances from or into any such locality;

(*b*) To detain persons or conveyances who or which have been exposed to infection or contagion for inspection; and may order the cleansing purifying and disinfecting thereof and anything contained therein at the expense of the owner, occupier or the person having the care and control thereof and may order the detention for this purpose of any steam boat, railway carriage or car and any public conveyance and anything contained therein and any person travelling thereby as long as may be necessary to ensure that all danger of infection is past. 1902, c. 4, s. 11.

### CITIES AND TOWNS.

City or town to appoint health officer

**12.** Every city or town shall appoint a health officer who shall be a medical practitioner at the first meeting of its council in each year and subject to the provisions of this Ordinance may prescribe his powers, duties and remuneration and the clerk of such council shall file a notice of such appointment with the minister within fourteen days thereafter and if such notice be not filed the minister may appoint any resident medical practitioner of such city or town as health officer for the year then current and fix his remuneration which shall be recoverable as a debt due to the health officer so appointed from the city or town. 1902, c. 4, s. 12.

Report to be made

**13.** Every health officer of a city or town shall before the third day of every month in each year report to the minister in such form as may be prescribed the number of cases of contagious or infectious disease, typhoid fever and tuberculosis occurring within the limits of such city or town during the then next preceding month. 1902, c. 4, s. 13.

### TUBERCULOSIS.

Report of cases of tuberculosis

**14.** Every medical practitioner shall on or before the third day of January, April, July and October in each year report to the minister in the form prescribed the number of cases of tuberculosis which he has been called upon to attend during the quarter last past.

(2) It shall be the duty of every practitioner when called upon to attend a case of tuberculosis to furnish the patient with a copy of the directions issued by the department for the guidance of phthisical patients.

(3) It shall be the duty of such practitioner to furnish the occupant or proprietor of the said house with a copy of the directions issued by the department for the proper disinfection of premises that have been occupied by such cases and when a medical practitioner is attending a patient subject to tuberculosis and said patient dies or vacates the room he has been occupying such medical practitioner shall give instructions to the occupant of the house for the proper disinfection of the premises and the occupant shall follow such instructions. 1902, c. 4, s. 14.

### MODE OF BURIAL IN CERTAIN CASES.

Precautions as to burial

**15.** The body of any person who has died of scarlet fever, diphtheria, small pox or Asiatic cholera shall be buried privately under such precautions as to disinfection as are prescribed in schedule 2 hereto. 1902, c. 4, s. 15.

### REPORTS OF MEDICAL PRACTITIONERS.

Quarterly report to minister

**16.** Every medical practitioner shall on or before the first day of January, April, July and October in each year cause a report to be mailed or delivered to the minister showing the number of cases of contagious or infectious diseases and of typhoid fever not within the limits of any city or town which he has been called to attend during the quarter last past and such reports shall be in the form prescribed:

Proviso

Provided that any cases occurring within the limits of any city or town shall be reported by such medical practitioner forthwith to the health officer of such city or town. 1902, c. 4, s. 16.

### EXPENDITURE UNDER ORDINANCE.

Payment of fees, etc.

**17.** The Lieutenant Governor may order the payment of any fee, allowance, or other remuneration for services rendered or supplies furnished under the provisions of this Ordinance out of the general revenue fund. 1902, c. 4, s. 17.

Payment for necessary and urgent expenditure

**18.** Where the necessity and urgency for so doing is established to the satisfaction of the minister by reason of the inability of any person or the friends of any person who may be suffering from an infectious or contagious disease to provide for such person the medical aid, accommodation and such other services or articles necessary to mitigate or prevent the spread of any such disease, the minister may in his discretion authorise the health officer or any other person to provide such medical aid, accommodation or other service or article as may be required for such person and the cost of the same may be defrayed by the Lieutenant Governor out of the general revenue fund. 1902, c. 4, s. 18.

### DISEASE OUTSIDE THE TERRITORIES.

Ingress from districts affected may be prohibited

**19.** When any part of the Territories becomes exposed to any contagious, infectious, or epidemic disease then existing in any place outside the Territories, the Lieutenant Governor in Council may declare that such disease exists in such place as aforesaid and prohibit all ingress to the Territories therefrom for a period to be named in such order. 1902, c. 4, s. 19.

### ADDITIONAL REGULATIONS.

Lieutenant Governor in Council may make regulations

**20.** The Lieutenant Governor in Council may make regulations respecting compulsory vaccination and for the prevention of contagious and infectious diseases and tuberculosis not inconsistent with any provisions of this Ordinance. 1902, c. 4, s. 20.

### FORMS.

Forms to be supplied

**21.** It shall be the duty of the minister to prescribe such forms and regulations as may be necessary for the carrying out of the provisions of this Ordinance. 1902, c. 4, s. 21.

### ENFORCEMENT OF ORDINANCE.

Constables

**22.** For the effectual enforcement of the provisions of this Ordinance it shall be lawful for any health officer to call in the aid of any policeman or constable and also to appoint quarantine constables who shall possess the powers ordinarily held by constables. 1902, c. 4, s. 22.

Arrest of offenders

**23.** Upon the direction of any health officer or sanitary inspector or on the information of any person or upon view of any disobedience or violation of any of the provisions of this Ordinance any peace officer or quarantine constable may arrest the offender by the authority of this Ordinance and without further warrant cause his person and clothing to be disinfected if necessary and convey him before a justice of the peace to be dealt with according to law. 1902, c. 4, s. 23.

### PENAL CLAUSES.

Penalty for destroying or removing notices

**24.** Any person defacing, destroying or removing any notice provided for by this Ordinance before the disinfection herein provided for has been done shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $25 and costs of prosecution. 1902, c. 4, s. 24.

Penalty for neglect to obey orders of health officer, etc.

**25.** Any person who neglects or refuses to obey any order given to him by a health officer, medical practitioner or sanitary inspector in pursuance of the provisions of this Ordinance shall be guilty of an offence and on summary conviction thereof be liable to a fine not exceeding $100 and costs of prosecution. 1902, c. 4, s. 25.

Penalty for assaulting, etc., health officer

**26.** Whoever assaults, obstructs, molests or hinders any health officer, constable or other person in the execution of any duty or exercise of any power conferred upon him by this Ordinance shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $50 and costs of prosecution. 1902, c. 4, s. 26.

Penalty for offences not otherwise provided for

**27.** Any person violating or neglecting or refusing to observe any of the provisions of this Ordinance for which violation or neglect or refusal no penalty is herein provided shall be guilty of an offence and liable on summary conviction to a fine not exceeding $50 and costs of prosecution. 1902, c. 4, s. 27.

Repeal

**28.** Chapter 19 of *The Consolidated Ordinances 1898* is hereby repealed. 1902, c. 4, s. 28.

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## PUBLIC INQUIRIES.

*See* INQUIRIES CONCERNING PUBLIC MATTERS.

## PUBLIC INSTRUCTION.

*See* SCHOOLS.

## PUBLIC OFFICER'S SECURITY.

*See* SECURITY OF PUBLIC OFFICERS.

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## PUBLIC PRINTING.

### An Ordinance respecting Public Printing.

C.O. 1898, c 11
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Appointment of Queen's printer

**1.** The Lieutenant Governor may appoint a *government* printer for the Territories and may fix the salary and prescribe the duties appertaining to the office. C. O. 11, s. 1; 1901, c. 5, s. 1.

Publication of official gazette

**2.** The Lieutenant Governor in Council may authorise the publication *not less than* twice in each month of an official gazette to be called *The North-West Territories Gazette* for the publication of proclamations, official and other notices and of all such matters whatsoever as may be from time to time required. C. O. 11, s. 2; 1901, c. 5, s. 2.

Printing and publication of Ordinances, *Gazette*, etc.

**3.** It shall be the duty of the *government* printer (subject to the direction of the Lieutenant Governor in Council) to print and publish or cause to be printed and published the Ordinances of the Territories, *The North-West Territories Gazette* and such documents and announcements as may from time to time be required. C. O. 11, s. 3; 1901, c. 5, s. 1.

Publication of advertisements, etc.

**4.** All advertisements, notices and documents whatever relating to matters within the control of the Legislative Assembly of the Territories and which by any law are required to be published shall be published in the said official gazette unless any other mode of publication is prescribed by law. C. O. 11, s. 4.

*Gazette*
Conditions and charges for publication and subscription

**5.** The Lieutenant Governor in Council shall prescribe the conditions of the publication of the said Gazette; and shall designate the public bodies, officers and persons to whom the said gazette shall be sent; and shall make a tariff of charges to be paid for the publication of notices, advertisements and documents to be published in the said gazette and the price of subscription to said gazette. C. O. 11, s. 5.

during pleasure; but whenever such pleasure is exercised in the direction of removing a clerk of the Legislative Assembly from his office a statement of the reasons for so doing shall be laid on the table of the Legislative Assembly within the first fifteen days of the next following session thereof. C. O. 5, s. 8.

### MANAGEMENT OF DEPARTMENTS.

Oversight of department

**9.** The head of each department shall oversee and direct the employees of the department; and shall have general control of the business thereof; and shall perform such other duties as are assigned to him by the Lieutenant Governor in Council. C. O. 5, s. 9.

Powers of deputy in absence of head

**10.** In the absence of any head, the deputy or assistant to the head of the department shall perform the duties of such head unless an acting head of the department is appointed or the performance of such duties is otherwise provided for by the Lieutenant Governor in Council; and any deputy or assistant head so acting during such absence shall exercise all the powers vested in the head as to the control of the other employees of the department. C. O. 5, s. 10.

### APPOINTMENTS.

Term of probation of employees

**11.** Every employee entering the public service of the Territories within the meaning of this Ordinance shall be subject to a probation of six months; and his employment shall cease at the end of that period from the date of his first employment unless at or before the end of that period the head signifies in writing that such person is considered by him as competent for the duty of that department; and if he is rejected the head of the department shall report to the Lieutenant Governor in Council the reasons for rejecting him. C. O. 5, s. 11.

How made

**12.** All appointments to the public service shall be made by the Lieutenant Governor in Council on the application and report of the head of the department in which the person appointed is to be employed. All such appointments shall be during pleasure. C. O. 5, s. 12.

Acting

**13.** It shall be lawful for the Lieutenant Governor in Council to appoint any member of the executive council to act as head of a department and also to appoint any acting officer or servant of any kind who shall have all the power and authority of the person for whom he is acting.

When to have effect

(2) Such acting head of department, officer or servant shall act only in the absence from the post of duty or during illness or other physical disability of the person for whom he acts or in case of a vacancy in office. C. O. 5, s. 13.

## OATHS.

Employees to subscribe to oaths of allegiance and office

**14.** All employees of the public service who have not already done so and every clerk of the Legislative Assembly, Territorial auditor or employee hereafter appointed before any salary is paid to him shall take and subscribe the oath of allegiance and also the oath contained in form A in the schedule hereto in addition to any other oath which may be provided by any other Ordinance in that behalf. C. O. 5, s. 14.

Clerk of Executive Council to subscribe to oath of secrecy

**15.** In the case of the clerk of the executive council and all employees under him and in the case of any officer or employee of whom the Lieutenant Governor requires the same there shall be added to the oath at the asterisks in the form of the oath in said form A of the schedule hereto the words contained in form B in the said schedule. C. O. 5, s. 15.

Persons before whom such oaths are to be taken

**16.** The clerk of the executive council shall take and subscribe the said oaths before the Lieutenant Governor or some one appointed by him to administer the same; in the case of persons residing or coming to reside at the seat of government in the Territories the oath shall be taken and subscribed before the clerk of the executive council; in other cases the oaths may be taken and subscribed before any person duly authorised to administer oaths in the Territories who shall forward the same to the clerk of the executive council. C. O. 5, s. 16.

Record of oaths

**17.** The clerk of the executive council shall keep a record of all such oaths. C. O. 5, s. 17.

## SALARIES.

Salaries

**18.** All employees in the public service of the Territories, the clerk of the Legislative Assembly and the Territorial auditor shall receive such salaries respectively as may be assigned to them by order in council and voted by the Legislature. C. O. 5, s. 18.

## ORGANISATION.

Precedence of officials

**19.** The staff of each department shall be divided and rank as follows:

during pleasure; but whenever such pleasure is exercised in the direction of removing a clerk of the Legislative Assembly from his office a statement of the reasons for so doing shall be laid on the table of the Legislative Assembly within the first fifteen days of the next following session thereof. C. O. 5, s. 8.

### MANAGEMENT OF DEPARTMENTS.

Oversight of department

**9.** The head of each department shall oversee and direct the employees of the department; and shall have general control of the business thereof; and shall perform such other duties as are assigned to him by the Lieutenant Governor in Council. C. O. 5, s. 9.

Powers of deputy in absence of head

**10.** In the absence of any head, the deputy or assistant to the head of the department shall perform the duties of such head unless an acting head of the department is appointed or the performance of such duties is otherwise provided for by the Lieutenant Governor in Council; and any deputy or assistant head so acting during such absence shall exercise all the powers vested in the head as to the control of the other employees of the department. C. O. 5, s. 10.

### APPOINTMENTS.

Term of probation of employees

**11.** Every employee entering the public service of the Territories within the meaning of this Ordinance shall be subject to a probation of six months; and his employment shall cease at the end of that period from the date of his first employment unless at or before the end of that period the head signifies in writing that such person is considered by him as competent for the duty of that department; and if he is rejected the head of the department shall report to the Lieutenant Governor in Council the reasons for rejecting him. C. O. 5, s. 11.

How made

**12.** All appointments to the public service shall be made by the Lieutenant Governor in Council on the application and report of the head of the department in which the person appointed is to be employed. All such appointments shall be during pleasure. C. O. 5, s. 12.

Acting

**13.** It shall be lawful for the Lieutenant Governor in Council to appoint any member of the executive council to act as head of a department and also to appoint any acting officer or servant of any kind who shall have all the power and authority of the person for whom he is acting.

(2) Such acting head of department, officer or servant shall act only in the absence from the post of duty or during illness or other physical disability of the person for whom he acts or in case of a vacancy in office. C. O. 5, s. 13.

When to have effect

### OATHS.

**14.** All employees of the public service who have not already done so and every clerk of the Legislative Assembly, Territorial auditor or employee hereafter appointed before any salary is paid to him shall take and subscribe the oath of allegiance and also the oath contained in form A in the schedule hereto in addition to any other oath which may be provided by any other Ordinance in that behalf. C. O. 5, s. 14.

Employees to subscribe to oaths of allegiance and office

**15.** In the case of the clerk of the executive council and all employees under him and in the case of any officer or employee of whom the Lieutenant Governor requires the same there shall be added to the oath at the asterisks in the form of the oath in said form A of the schedule hereto the words contained in form B in the said schedule. C. O. 5, s. 15.

Clerk of Executive Council to subscribe to oath of secrecy

**16.** The clerk of the executive council shall take and subscribe the said oaths before the Lieutenant Governor or some one appointed by him to administer the same; in the case of persons residing or coming to reside at the seat of government in the Territories the oath shall be taken and subscribed before the clerk of the executive council; in other cases the oaths may be taken and subscribed before any person duly authorised to administer oaths in the Territories who shall forward the same to the clerk of the executive council. C. O. 5, s. 16.

Persons before whom such oaths are to be taken

**17.** The clerk of the executive council shall keep a record of all such oaths. C. O. 5, s. 17.

Record of oaths

### SALARIES.

**18.** All employees in the public service of the Territories, the clerk of the Legislative Assembly and the Territorial auditor shall receive such salaries respectively as may be assigned to them by order in council and voted by the Legislature. C. O. 5, s. 18.

Salaries

### ORGANISATION.

**19.** The staff of each department shall be divided and rank as follows:

Precedence of officials

(*a*) The deputy or assistant to the head of the department;

(*b*) The chief clerk of each branch, bureau or subdepartment provided the department is so divided;

(*c*) Clerks;

(*d*) Messengers. C. O. 5, s. 19.

**Division of departments**

**20.** The Lieutenant Governor in Council may from time to time divide any department into as many branches, bureaus or subdepartments as may appear most convenient for the service; and one of the clerks in such department may be appointed chief clerk of such branch, bureau or subdepartment. C. O. 5, s. 20.

GENERAL PROVISIONS AND REGULATIONS.

**Officials required**

**21.** As soon as conveniently may be after the passing of this Ordinance the Lieutenant Governor in Council shall determine the number of officers or employees that are required for the working of each department and shall classify the same according to the arrangements so determined. C. O. 5, s. 21.

**Extra clerical assistance and payment therefor**

**22.** No extra clerk or other employee shall (except under an order in council) be employed in any department unless for a period not exceeding three months for which he may be paid at a rate not exceeding two dollars and a half per day out of the appropriation of the department on the certificate of the head thereof; except only that if such extra clerk or employee be a person of special attainments and employed as such he may be paid at a rate not exceeding the ordinary charge for such services.

**Employment of extra clerks**

(2) Any extra clerk or employee may (under an order in council made on the application and report of the head of the department that the same is requisite) be employed for a longer period than three months and he shall during such period be borne on the pay list of the department. At the end of six months such extra clerk or employee shall only be retained in the department as a probationary clerk or employee if appointed as such in the manner required herein. C. O. 5, s. 22.

**Hours of attendance**

**23.** The Lieutenant Governor in Council may regulate the hours of attendance of the employees in any department; and when the public service demands (in case of pressure or urgency) that additional time be given such additional time as the head or deputy head of any department may require shall be given by all the clerks and employees without additional compensation. C. O. 5, s. 23.

**Transfer of clerks from one department to another**

**24.** The Lieutenant Governor in Council may transfer any clerk or employee from one department to another or assign any duties to any clerk or employee temporarily or otherwise. C. O. 5, s. 24.

**Payment for extra services**

**25.** No allowance or compensation shall be made for any extra services whatsoever which any clerk or employee may be required to perform. C. O. 5, s. 25.

**Suspension of officials**

**26.** The head of a department may suspend from the performance of his duty or from the receipt of his salary any employee guilty of improper conduct or negligence in the performance of his duties; and may subsequently remove such suspension; but no person shall receive any salary or pay for the time during which he was under suspension. C. O. 5, s. 26.

**No applications for increase of salary to be made**

**27.** Any application for increase of salary made by any employee in the public service or by any other person on his behalf with such employee's consent or knowledge shall be considered as a tendering of the resignation of such employee. C. O. 5, s. 27.

**Leave of absence**

**28.** The head of a department may at such times as may be convenient grant to each employee in the department leave of absence for recreation for any period not exceeding three weeks for each year of service; and the head of a department may (in case of illness or other pressing necessity) grant such extended leave not exceeding twelve months and on such terms as the Lieutenant Governor in Council may think fit. C. O. 5, s. 28.

**Rules and regulations may be made**

**29.** The Lieutenant Governor in Council may make rules and regulations for carrying the provisions of this Ordinance into effect. C. O. 5, s. 29.

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## SCHEDULE.

### FORM A.

### Oath of Office.

I, (*A.B.*) do solemnly and sincerely swear that I will faithfully and honestly fulfil the duties which devolve upon me as , and that I will not ask or receive any sum of money, services, recompense or matter or thing whatsoever, directly or indirectly, in return for what I have done or may do in the the discharge of any of the duties of my said office, except my salary or what may be allowed me by law or by an order of the Lieutenant Governor in Council * * * . So help me God.

## FORM B.

ADDITION TO OATH FOR CLERK OF EXECUTIVE COUNCIL AND OTHERS.

And that I will not, without due authority in that behalf, disclose or make known any matter or thing which comes to my knowledge by reason of my employment as (*as the case may be*).

# PUBLIC WORKS.

1901, c. 4
12 June, 1901

## An Ordinance respecting Public Works.

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short Title

**1.** This Ordinance may be known and cited as "*The Public Works Ordinance.*" 1901, c. 4, s. 1.

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

"Department"

1. The expression "department" means the department of public works for the North-West Territories;

"Comissioner"

2. The expression "commissioner" means the commissioner of public works for the Territories;

"Deputy commissioner"

3. The expression "deputy commissioner" means the deputy commissioner or the person performing his duties for the time being;

"Chief engineer"

4. The expression "chief engineer" means the chief engineer of the department or the person performing his duties for the time being;

5. The expression "district surveyor and engineer" means the district surveyor and engineer for any public works district appointed as herein provided or any surveyor or engineer employed from time to time by the commissioner to perform any of the duties imposed upon district surveyors and engineers by this Ordinance; "District surveyor and engineer"

6. The expression "public works district" means any portion of the Territories which may from time to time be set aside as a public works district with a distinctive name; "Public works district"

7. The expression "surveyor" means a land surveyor duly authorised under the provisions of *The Dominion Lands Act* or any Ordinance to survey lands in the Territories; "Surveyor"

8. The expression "road allowance" means any road allowance laid out under the provisions of *The Dominion Lands Act;* "Road allowance"

9. The expression "public road" means any road surveyed and set aside as a public highway under the provisions of *The North-West Territories Act* or this Ordinance; "Public road"

10. The expression "ditch" or "drain" means any ditch or drain open or covered wholly or in part and whether in the channel of a natural stream, creek or watercourse or not and also the work and materials necessary for any culvert, catch basin or guards; and any ditch or drain constructed by the department may be called "government ditch" and distinguished by a number; "Ditch or drain"

11. The expression "construction" means the original work of constructing any public work or opening or making any road allowance, road, ditch or drain; "Construction"

12. The expression "maintenance" means and includes the preservation and keeping in repair of any public work, road allowance, road, ditch or drain; "Maintenance"

13. The expression "public work" means lands, streams, watercourses and property (real or personal) heretofore or hereafter acquired for public works; dams, hydraulic works and other works for improving the navigation of any stream; dams, slides, piers, booms or other works for facilitating the transmission of logs or timber; dams erected for the storage of water, water powers and works connected therewith; roads, culverts, bridges, ditches, drains, public buildings and wells; "Public work"

14. The expression "written" or "writing" or terms of like import mean and include words printed, engraved, lithographed or otherwise traced or copied; "Written" or "writing"

15. The expression "official valuator" means the official appointed to that position as herein provided; "Official valuator"

"Owner"

16. The expression "owner" includes any person who by any right, title or estate whatsoever is or is entitled to be in possession of any land;

"Outlet"

17. The expression "outlet" means any river, creek, water-course or natural drainage channel;

"Person"

18. The expression "person" includes partnerships and companies;

"Ferry" or "ferries"

19. The expression "ferry" or "ferries" means any scow, barge or boat used for the purpose of carrying passengers, freight, vehicles or animals across any river, stream or other body of water and the cable and appliances connected therewith;

"License"

20. The expression "license" means the license issued to any person to operate a ferry under the provisions of this Ordinance. 1901, c. 4, s. 2.

### ORGANISATION AND DUTIES OF THE DEPARTMENT.

Organisation of department

Commissioner of public works

**3.** There shall be a department of the public service of the North-West Territories called the department of public works over which the member of the executive council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the commissioner of public works for the time being shall preside. 1901, c. 4, s. 3.

Administration

**4.** The commissioner shall have the administration, management and control of the department and of the general business thereof; and shall oversee and direct the officers, clerks and servants of the department. 1901, c. 4, s. 4.

Government buildings

**5.** The commissioner shall also have the management, charge and direction of the construction, heating, lighting, furnishing, maintenance and keeping in repair of all government buildings. 1901, c. 4, s. 5.

**6.** * * * * * * * * * * * * *

Control of public works

Maps and plans

Public highways

**7.** The commissioner shall also have the control and management of the construction and maintenance of all public works; and of the issue of any and all maps and plans needed by the department or by any other department of the North-West Government; he shall also deal with all questions affecting obstructions to any road allowance or public highway which has been vested in the North-West Government for public use, including the crossing of such road allowances or public highways by irrigation ditches, canals or other works;

Ferries

and with the providing and maintaining of public or private ferries as herein provided on any river or stream or other body of water in the Territories; and shall have such other powers and duties as may from time to time be assigned to him by the Lieutenant Governor in Council. 1901, c. 4, s. 7.

**8.** and **9.** * * * * * * * * * * * *

### VERIFICATION OF ACCOUNTS.

Accounts may be attested on oath

**10.** The commissioner may require any account sent in by any person employed by the department to be verified by oath, affirmation or statutory declaration which as well as that to be taken by any witness may be administered or taken by the commissioner or by the deputy commissioner. 1901, c. 4, s. 10.

Examination of witnesses

Compelling attendance

**11.** The commissioner may by notice in writing signed by him require the attendance before him at a time and place to be named in the notice of any person deemed necessary touching any matter upon which his attendance is required; and may by the notice require such person to bring with him all papers, plans, books, documents and things in his possession or under his control bearing in any way upon the matter so before him; and at the time and place appointed by the notice examine the person so notified to be present on oath touching the matter aforesaid.

Remuneration

(2) For the time lost and expenses incurred by any person in obedience to such notice, such person shall be entitled to reasonable remuneration to be paid out of the general revenue fund by the treasurer on the certificate of the commissioner.

Penalty for noncompliance

(3) Any person wilfully neglecting or refusing in any way to comply with the notice of the commissioner or to be examined as aforesaid shall be guilty of an offence and liable on summary conviction to a fine of $25 and on nonpayment of such fine forthwith after conviction to imprisonment for one month. 1901, c. 4, s. 11.

### PUBLIC PROPERTY.

Public works etc., to be the property of his Majesty and controlled by department

**12.** All lands, streams, watercourses and property (real or personal) heretofore or hereafter acquired for the use of public works; all dams, hydraulic works and other works for improving the navigation of any water; all slides, dams, piers, booms and other works for facilitating the transmission of logs or timber; all dams erected for the storage of water; all hydrau-

"Owner" 16. The expression "owner" includes any person who by any right, title or estate whatsoever is or is entitled to be in possession of any land;

"Outlet" 17. The expression "outlet" means any river, creek, watercourse or natural drainage channel;

"Person" 18. The expression "person" includes partnerships and companies;

"Ferry" or "ferries" 19. The expression "ferry" or "ferries" means any scow, barge or boat used for the purpose of carrying passengers, freight, vehicles or animals across any river, stream or other body of water and the cable and appliances connected therewith;

"License" 20. The expression "license" means the license issued to any person to operate a ferry under the provisions of this Ordinance. 1901, c. 4, s. 2.

### ORGANISATION AND DUTIES OF THE DEPARTMENT.

Organisation of department — Commissioner of public works

**3.** There shall be a department of the public service of the North-West Territories called the department of public works over which the member of the executive council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the commissioner of public works for the time being shall preside. 1901, c. 4, s. 3.

Administration **4.** The commissioner shall have the administration, management and control of the department and of the general business thereof; and shall oversee and direct the officers, clerks and servants of the department. 1901, c. 4, s. 4.

Government buildings **5.** The commissioner shall also have the management, charge and direction of the construction, heating, lighting, furnishing, maintenance and keeping in repair of all government buildings. 1901, c. 4, s. 5.

**6.** * * * * * * * * * * * * *

Control of public works — Maps and plans — Public highways

**7.** The commissioner shall also have the control and management of the construction and maintenance of all public works; and of the issue of any and all maps and plans needed by the department or by any other department of the North-West Government; he shall also deal with all questions affecting obstructions to any road allowance or public highway which has been vested in the North-West Government for public use, including the crossing of such road allowances or public highways by irrigation ditches, canals or other works;

Ferries

and with the providing and maintaining of public or private ferries as herein provided on any river or stream or other body of water in the Territories; and shall have such other powers and duties as may from time to time be assigned to him by the Lieutenant Governor in Council. 1901, c. 4, s. 7.

**8.** and **9.** * * * * * * * * * * * * *

### VERIFICATION OF ACCOUNTS.

Accounts may be attested on oath

**10.** The commissioner may require any account sent in by any person employed by the department to be verified by oath, affirmation or statutory declaration which as well as that to be taken by any witness may be administered or taken by the commissioner or by the deputy commissioner. 1901, c. 4, s. 10.

Examination of witnesses

Compelling attendance

**11.** The commissioner may by notice in writing signed by him require the attendance before him at a time and place to be named in the notice of any person deemed necessary touching any matter upon which his attendance is required; and may by the notice require such person to bring with him all papers, plans, books, documents and things in his possession or under his control bearing in any way upon the matter so before him; and at the time and place appointed by the notice examine the person so notified to be present on oath touching the matter aforesaid.

Remuneration

(2) For the time lost and expenses incurred by any person in obedience to such notice, such person shall be entitled to reasonable remuneration to be paid out of the general revenue fund by the treasurer on the certificate of the commissioner.

Penalty for noncompliance

(3) Any person wilfully neglecting or refusing in any way to comply with the notice of the commissioner or to be examined as aforesaid shall be guilty of an offence and liable on summary conviction to a fine of $25 and on nonpayment of such fine forthwith after conviction to imprisonment for one month. 1901, c. 4, s. 11.

### PUBLIC PROPERTY.

Public works etc., to be the property of his Majesty and controlled by department

**12.** All lands, streams, watercourses and property (real or personal) heretofore or hereafter acquired for the use of public works; all dams, hydraulic works and other works for improving the navigation of any water; all slides, dams, piers, booms and other works for facilitating the transmission of logs or timber; all dams erected for the storage of water; all hydraulic powers created by the construction of any public work; all roads and bridges; all public buildings; all vessels, dredges, scows, tools, implements and machinery for the improvement of navigation; all drains and drainage works; all ferries; all wells; and all property hertofore or hereafter acquired, constructed, repaired, maintained or improved at the expense of the Territories and not under the control of the Dominion government shall be and remain vested in his Majesty and so far as not under the control of any other department shall be under the control of the department of public works. 1901, c. 4, s. 12.

Other works may be declared public works

**13.** The Lieutenant Governor in Council may from time to time declare any other property (real or personal) and any works, roads, bridges, harbours, booms, slides, buildings or other things specified in the last preceding section and purchased or constructed at the public expense to be public works subject to the provisions of this Ordinance; and they shall thenceforth be vested in his Majesty and under the control of the department. 1901, c. 4, s. 13.

Maps, etc., not private property, may be required by department

**14.** Any person having possession of any maps, plans, specifications, estimates, reports or other papers, books drawings, instruments, models, contracts, documents or records relating to any public work who refuses or neglects upon demand of the commissioner or other person authorised to require it forthwith to deliver the same to the department shall be guilty of an offence and liable on summary conviction thereof to a penalty of $25 and on nonpayment forthwith on conviction to imprisonment for one month. 1901, c. 4, s. 14.

Public property may be sold

**15.** Any property (real or personal) when no longer required for the use of any public work may be sold, leased or otherwise disposed of under the authority of the *commissioner* and the proceeds of all such sales, leases and dispositions shall be accounted for as public money:

Proviso

Provided always that such property shall whenever practicable be so sold, leased or disposed of by tender or public auction. 1901, c. 4, s. 15; 1903, Sess. 2, c. 3, s. 2.

## CONTRACTS.

Commissioner may enter into contract

**16.** The commissioner shall have power to enter into any contract with any person or corporation that may be necessary or advisable in carrying out the provisions of any Ordinance of the Legislative Assembly; but no deeds, contracts or writings shall hereafter be deemed to be binding on the department nor shall be held to be the acts of the commissioner unless signed by him or by the deputy commissioner. 1901, c. 4, s. 16.

**17.** It shall be the duty of the commissioner to invite tenders by public advertisement or by other public notice for the construction and repair of all public works except in cases when from the nature of the work it can be more expeditiously and economically executed by order or commission or by or under the direction of the officers of the department. 1901, c. 4, s. 17.

**Tenders to be invited**

**Exceptions**

**18.** The commissioner when any public work is being carried out by contract and in other cases may require that security be given to and in the name of his Majesty for the due performance of the work within the amount and time specified for its completion and in all cases where it seems to the commissioner not to be expedient to let such work to the lowest bidder it shall be his duty to report the same and obtain the authority of the Lieutenant Governor in Council previous to passing by such lowest tender; but no sum of money shall be paid to the contractor nor shall any work be commenced on any contract until the contract has been signed by all the parties named therein nor until any security required has been given. 1901, c. 4, s. 18.

**Security for performance of contracts**

**Where contracts not let to the lowest bidder**

**19.** All contracts respecting any public works or property (real or personal) under control of the department heretofore or hereafter entered into by the commissioner or by any other person duly authorised to enter into the same shall enure to the benefit of his Majesty and may be enforced as if they had been entered into with his Majesty under the authority of this Ordinance. 1901, c. 4, s. 19.

**Contract to enure to his Majesty**

### ACTIONS AND SUITS.

**20.** All actions, suits and other proceedings for the enforcement of any contract or for the recovery of any damages for any tort or breach of contract or for the trial of any right in respect of any property (real or personal) under the control of the department shall be instituted in the name of his Majesty by the attorney general. 1901, c. 4, s. 20.

**Actions to be instituted by attorney general**

### EVIDENCE OF RECORDS, ETC.

**21.** Copies of any records, documents, plans, books or papers belonging to or deposited in the department attested under the signature of the commissioner or of the deputy commissioner shall be *prima facie* evidence of the same and shall have the same legal effect as the original in any court or elsewhere. 1901, c. 4, s. 21.

**Copies of records, etc., when attested to be prima facie evidence**

### ANNUAL REPORT OF THE DEPARTMENT.

Annual report

**22.** The commissioner shall make and submit to the Lieutenant Governor an annual report on all the works under the control of the department to be laid before the Legislative Assembly within ten days from the commencement of the session next following the end of the year for which such report is made with such further information as may be requisite to enable the Legislative Assembly to judge of the working of the department. 1901, c. 4, s. 22.

### PUBLIC WORKS DISTRICTS.

Public works district

**23.** The Lieutenant Governor in Council may from time to time set aside any portion of the Territories as a public works district; and a notice of the order setting aside any district describing the boundaries of the district shall be published in the official gazette. 1901, c. 4, s. 23.

District surveyors and engineers

**24.** The Lieutenant Governor in Council may appoint one or more qualified persons as district surveyors and engineers for any public works district; and may define their duties and fix the remuneration to be paid such district surveyors and engineers.

(2) A notice of the appointment of any district surveyor and engineer shall be published in the official gazette. 1901, c. 4, s. 24.

Penalty for obstructing district surveyor

**25.** Any person who interrupts, hinders or molests any district surveyor and engineer engaged in making any examination, exploration or survey in connection with any work authorised by this Ordinance shall be guilty of an offence and upon summary conviction thereof shall be liable to a penalty not exceeding $50 or to imprisonment for a term not exceeding two months or to both 1901, c. 4, s. 25.

Examination of witnesses

Compelling attendance

**26.** Any district surveyor and engineer may by notice in writing signed by him require the attendance before him at a time and place to be named in the notice of any person deemed necessary touching any matter upon which his attendance is required in connection with any public work; and may by the notice require such person to bring with him all papers, plans, books, documents and things in his possession or under his control bearing in any way upon the matter so before him; and at the time and place appointed by the notice examine the person so notified to be present on oath touching the matter aforesaid.

(2) For the time lost and expenses incurred by any person in obedience to such notice such person shall be entitled to reasonable remuneration to be paid out of the general revenue fund by the treasurer on the certificate of the commissioner.

Remuneration

(3) Any person wilfully neglecting or refusing in any way to comply with the notice of the district surveyor and engineer or to be examined as aforesaid shall be guilty of an offence and liable on summary conviction to a fine of $25 and on nonpayment of such fine forthwith after conviction to imprisonment for one month. 1901, c. 4, s. 26.

Penalty for noncompliance

SURVEYS.

**27.** The commissioner may from time to time cause surveys to be made by a duly qualified surveyor of any old trail which existed as such prior to the subdivision of the land which it crosses into sections or any road allowance diversion or new road; and one copy of the plans of such surveys approved by the chief engineer shall be deposited in the lands titles office for the land registration district within which such old trail, road allowance diversion or new road is situated and a second copy in the department.

Surveys of trails, etc.

(2) Such old trails, road allowance diversions or new roads shall be laid out one chain (or sixty-six feet) in width; and in making the survey of any old trail the surveyor may make such changes in the location thereof as he deems necessary without however altering its main direction.

Location and width

(3) The commissioner may from time to time prescribe a manual of instructions for the guidance of surveyors employed in making any surveys authorised by this Ordinance; and may therein direct the manner in which such surveys shall be marked on the ground and the plans and field notes of the same prepared. 1901, c. 4, s. 27.

Manual of instructions

**28.** The commissioner may close up the whole or any portion of any road allowance or other public road and may deal with the land in any such road allowance or other public road as may seem expedient.

Closing up roads

(2) All documents necessary to transfer the title to the portion of any road allowance or other public trail which has been closed as herein provided shall be signed by the commissioner. 1901, c. 4, s. 28.

**29.** The commissioner may cause to be made by a duly qualified surveyor the survey of any area required for any public building, dam, reservoir, ditch, drain or any other public work. 1901, c. 4, s. 29.

Survey for public work

**Exploration for public work**

**30.** The commissioner may from time to time cause to be made by a duly qualified surveyor or engineer any exploration or investigation needed in connection with the examination of any portion of the Territories to determine the feasibility and cost of any proposed public work. 1901, c. 4, s. 30.

### DRAINAGE.

**31.** to **46.** * * * * * * * * * * *

### LANDS REQUIRED FOR PUBLIC WORKS.

**Expropriation of lands for public works**

**47.** The commissioner may by surveyors, engineers, foremen, agents, workmen and servants enter upon and take possession of any lands in whomsoever vested required for any public work 1901, c. 4, s. 47.

**Survey and plan**

**48.** Lands taken for any public work shall be surveyed and marked on the ground by a duly qualified surveyor who shall prepare a proper plan of the same.

(2) *Every person who interrupts, hinders or molests any person while engaged under authority of the commissioner in removing any obstruction, making an examination for or in constructing, maintaining or repairing any public work or any works connected therewith on any land after the survey thereof has been approved by the commissioner shall be guilty of an offence and upon summary conviction thereof liable to a penalty not exceeding $50 and costs or to imprisonment for a period not exceeding thirty days or to both.* 1901, c. 4, s. 48; 1904, c. 2, s. 1.

**Plan to be approved by chief engineer**

**49.** The plans of any lands required for any public work shall be examined and approved by the chief engineer; and one copy thereof shall thereupon be filed in the department. 1901, c. 4, s. 49.

**Application to judge for vesting order**

**50.** The commissioner may thereupon apply *ex parte* to a judge of the supreme court for an order vesting in his Majesty every estate and interest in the lands shown on the plan in the next preceding section mentioned; and the judge shall upon the production to him of a copy of the said plan certified by the commissioner or chief engineer and a certificate of the commissioner stating that the said lands are required for the purposes of this Ordinance make the said order which shall have the effect of divesting all persons other than his Majesty of any interest in the said land. 1901, c. 4, s. 50.

**Notice of compensation**

**51.** Upon the filing in the department of the plan of any land taken for any public work as hereinbefore provided the commissioner shall except in cases hereinafter provided for cause to be served by ordinary process of mail upon all persons shown by the records of the land titles office to be interested in the lands so taken a notice setting forth the compensation which he is ready to pay for the lands so taken:

Provided that when compensation is claimed by two or more persons who are unable to agree as to a division thereof the commissioner may pay the same to the clerk of the supreme court nearest to the land affected to be paid out to the parties interested in such proportions as may be ordered by a judge of the supreme court on application thereof. 1901, c. 4, s. 51.

**Claim for increased compensation**

**52.** If any person entitled to compensation for lands taken for any public work is dissatisfied with the amount offered therefor as herein provided he shall within one month from the date of the notice provided in the next preceding section notify the commissioner in writing of such dissatisfaction and shall in such notice state the amount he claims as compensation for the lands so taken together with a full statement of the facts in support of his claim. 1901, c. 4, s. 52.

**Compensation fixed by arbitration in cases of disagreement**

**53.** *The commissioner shall consider such claim for increased compensation and shall notify the claimant of his decision in respect thereto by registered letter.*

(2) *Such claimant if dissatisfied with the decision of the commissioner may within sixty days after being notified of the decision of the commissioner give notice in writing to the commissioner which may be by registered letter that he will submit the claim to arbitration and the said claim shall thereupon be submitted to arbitration and such arbitration shall be to two arbitrators under the provisions of The Arbitration Ordinance.*

(3) *If the claimant does not so notify the commissioner and make the deposit as in the next following subsection required within the said period of sixty days as in the next preceding subsection provided he shall be deemed to have accepted the commissioner's decision and shall not thereafter be at liberty to question it.*

(4) *The claimant shall with the notice of submission to arbitration deposit with the commissioner as security for the costs of the arbitration a sum equal to ten per cent. of the amount claimed by him but not in any event less than $25.*

(5) *All costs and expenses of the arbitration shall be paid by the claimant unless the arbitrators shall award him a sum at least ten per cent. greater than the amount fixed by the commissioner by his final decision and the commissioner shall be entitled to deduct his costs and expenses of the arbitration out of the moneys deposited by the claimant and the surplus, if any, shall be returned to the claimant.*

(6) *In the event of the claimant not being required to pay the commissioner's costs of the arbitration the full amount deposited by him shall be returned to him.*

(7) *The only costs allowable upon any arbitration under this section shall be arbitrators and witness fees.*

(8) *In estimating the amount to which the claimant is entitled the arbitrators shall consider, and find separately as to the value of the land taken and of all improvements thereon, the damage, if any, to the remaining property of the claimant and the original cost only of any extra fencing which may be necessary by reason of the taking of the land and if the value of the remaining property of the claimant is increased by reason of the construction of the public work through his property the increase of value shall be deducted from the amount so estimated and found and the balance, if any, shall be the amount awarded to the claimant.* 1903, Sess. 2, c. 3, s. 3.

**Opening of road on petition and payment of expenses**

**53a.** *If any one or more persons petition the commissioner for the opening of a road through any land and the commissioner is of opinion that such road may be reasonably opened for the convenience and benefit of such person or persons as aforesaid but that such road is not required in the interest of the public generally the commissioner may require the said person or persons to deposit with the Territorial treasurer such sum as he considers sufficient to cover the cost of opening the road and paying compensation in connection therewith and if the said road or any road which in the opinion of the commissioner will be of equal or nearly equal convenience and benefit to such person or persons as aforesaid is thereafter opened the sum so deposited or so much thereof as may be necessary may be applied towards paying the expenses of opening the road and paying compensation in connection therewith and any balance which remains shall be repaid to such person or persons as aforesaid.* 1903, Sess. 2, c. 4, s. 4.

### OFFICIAL VALUATORS.

**Official valuators**

**54.** The Lieutenant Governor in Council may appoint one or more competent persons as official valuators and may define the duties of such officers and fix the remuneration to be paid them for their services. 1901, c. 4, s. 54.

**Inspection and report**

**55.** The commissioner may employ any official valuator to inspect and report regarding the value of any lands taken for public works, and may empower such valuator to make an offer of compensation to the owner of the lands so taken and such offer shall have the same force and effect as if made by the commissioner under the provisions of section 51 of this Ordinance. 1901, c. 4, s. 55.

**Suppression of resistance to commissioner**

**56.** If any resistance or opposition is made by any person to the taking by the commissioner or any person authorised by him of lands for public works as provided by this Ordinance a judge of the supreme court of the Territories may on proof of the proper taking of such lands as herein provided issue his warrant to the sheriff of the judicial district within which such lands are situated directing him to put down such resistance or opposition and to put the commissioner or some person acting for him in possession of such lands; and the sheriff shall take with him sufficient assistance for such purpose and shall put down such resistance or opposition and shall put the commissioner or the person acting for him in possession thereof; and shall forthwith make a return to the supreme court of such warrant and of the manner in which he executed the same. 1901, c. 4, s. 56.

**Provisions of secs. 47 to 56 retroactive**

**57.** The provisions of sections 47 to 56 inclusive of this Ordinance in so far as they are applicable shall apply to all cases of the taking of lands for public works proceedings for which have been begun before the coming into force of this Ordinance but have not been completed by the transfer of such lands to his Majesty. 1901, c. 4, s. 57.

### SALE OF LANDS VESTED IN HIS MAJESTY.

**Administration and disposal of public lands**

**58.** The commissioner shall have the administration and management of all lands taken for public works as herein provided and of all other lands the property of the Territories; and such lands may be disposed of from time to time under regulations to be prescribed by the Lieutenant Governor in Council.

(2) The said lands when required to be leased or transferred may be so leased or transferred under the hand and official seal of the commissioner. 1901, c. 4, s. 58.

### PUBLIC FERRIES.

Public ferries

**59.** The commissioner may when he deems it expedient to do so establish and maintain a public ferry or ferries on any river, stream or other body of water in the Territories; and may operate such ferry or ferries as a public work collecting thereon such tolls as he may fix and determine. 1901, c. 4, s. 59.

### PRIVATE FERRIES.

Licence for private ferry

**60.** The commissioner may from time to time issue an annual license to any person or persons for the establishment and operation of a private ferry or ferries on any river, stream or other body of water in the Territories granting the exclusive right to maintain and operate the said ferry or ferries within the limits specified in such license and upon such terms as he may deem fit. 1901, c. 4, s. 60.

Licence to specify tolls, etc.,

**61.** Every ferry license granted shall specify the maximum rate of tolls which may be charged on such ferry, the kind and size of the scow, barge or boat to be used in such ferrying, the limits of the river, stream or other body of water within which such ferry is to be operated and the hours during which such ferries shall be operated. 1901, c. 4, s. 61.

Licence to be posted up

**62.** Every person holding a license for a ferry shall keep it posted up at all times is a conspicuous place on such ferry. 1901, c. 4, s. 62.

No tolls to be charged school children

Mails not to be obstructed

**63.** Notwithstanding anything contained in this Ordinance no toll shall be charged for children going to or returning from school and in no case shall his Majesty's mail be obstructed or a higher rate be charged for the conveyance thereof than the rates that may be charged according to the terms of the license between the hours of six o'clock in the morning and nine o'clock in the evening. 1901, c. 4, s. 63.

Punishment of persons refusing to pay tolls

**64.** If any person using an authorised ferry refuses to pay the authorised toll or rates chargeable for ferrying him or his property the licensee of such ferry may forthwith seize any property in possession of the offender then being ferried and hold the same; and such person shall be guilty of an offence and upon summary conviction thereof shall be liable to a penalty not exceeding $50 and in default of payment thereof to imprisonment for a period not exceeding two months; and the property so seized shall be liable for the payment of the fine and the toll and the costs of the prosecution and may be sold under distress warrant to satisfy such charges. 1901, c. 4, s. 64.

Approaches to ferry to be kept in order

**65.** The immediate approaches to every ferry shall be kept in such order and condition by the licensee as is necessary to make the ferry accessible at all times for loaded vehicles and animals attached thereto without danger or injury. 1901, c. 4, s. 65.

Ferry not to injure ford

**66.** A ferry on any stream, river or other body of water that may be fordable at any time shall not be used to block up or injure such ford or fords or the landing therefrom; nor shall the licensee do any act which will make the ford on any such stream, river or other body of water more difficult or dangerous than it would otherwise have been. 1901, c. 4, s. 66.

Punishment for interference with rights of licensed ferryman

**67.** Any person unlawfully interfering with the rights of any licensed ferryman by taking, carrying or conveying within the limits of any such ferry license across the stream, river or other body of water on which the same is situate any person or personal property or any vehicle or animal in any scow, barge or boat or any raft or other contrivance for hire or reward or hindering or interfering with such licensee in any way shall be guilty of an offence and upon summary conviction thereof shall be liable to a penalty not exceeding $100 for each such offence and in default of payment thereof to imprisonment for any period not exceeding three months. 1901, c. 4, s. 67.

### PROVISION FOR LOW WATER.

License to provide small boat or canoe

**68.** In case the water in any stream, river or other body of water in respect of which the license for the operation of a ferry has been issued becomes too shallow to permit of such ferry being operated, the licensee shall provide and keep a small boat or canoe with which he shall transfer foot passengers and their baggage across such stream, river or other body of water; and for such service the licensee shall be allowed to charge the fees prescribed in his license for like services by means of the ferry. 1901, c. 4, s. 68.

### INSPECTION OF FERRIES.

Inspection of ferries

**69.** The commissioner may from time to time appoint such person as he may see fit to inspect and report on the condition of any ferry or with reference to the complaint of any person using or desiring to use such ferry; and if at any time the person or persons holding a ferry license fail to comply with the written instructions of the commissioner by neglecting to repair any scow, barge or boat used in connection with such ferry or to provide a new scow, barge or boat in place of any one considered as being unsafe or by not providing safe and sufficient immediate approaches to such ferry he or they shall forfeit his or their licenses. 1901, c. 4, s. 69.

### PENALTIES FOR OFFENCES BY LICENSEES.

Penalty for violating terms of license or Ordinance

**70.** Any licensee violating any of the terms or conditions of his license or of this Ordinance shall be guilty of an offence and be liable on summary conviction thereof to a penalty not exceeding $50 and in default of payment thereof to imprisonment for any period not exceeding one month unless the fine and costs are sooner paid; and shall be further liable to forfeit his license under the direction of the commissioner. 1901, c. 4, s. 70.

Fees to be paid to general revenue fund

**71.** All money received for ferry licenses, fees or bonuses under this Ordinance shall be deposited to the credit of the general revnue fund of the Territories. 1901, c. 4, s. 71.

Penalty for unlicensed ferry

**72.** Any person operating a private ferry without having first obtained a license therefor as provided by this Ordinance shall be guilty of an offence and upon summary conviction thereof shall be liable to a fine of $10 for each and every day that such ferry is operated without such license. 1901, c. 4, s. 72.

### PROTECTION OF PUBLIC WORKS.

Penalty for obstructing public highway

**73.** Any person who obstructs or interferes in any manner with any road allowance or other surveyed highway vested in his Majesty as herein provided shall be guilty of an offence and upon summary conviction thereof shall be liable to a fine not exceeding $50 or imprisonment for thirty days or both. 1901, c. 4, s. 73.

Penalty for injuring public work

**74.** Any person who carelessly or wilfully breaks, cuts, fills up or otherwise injures any public work shall be guilty of an offence and upon summary conviction thereof be fined a sum not exceeding $100 and costs and in default of payment after conviction may be imprisoned for a period not exceeding sixty days; and the justice of the peace may further order the offender to forthwith repair any such damage or remove any obstruction as aforesaid.

Traffic on bridges

(2) Any person who rides or drives any horse, mule or horned cattle upon or across any bridge the property of his Majesty at a pace faster than a walk shall be guilty of an offence and shall be liable upon summary conviction thereof to a penalty not exceeding $25.

Obstructing bridges

(3) Any person who wilfully places any obstruction on any bridge the property of his Majesty or who in any way prevents, hinders or causes delay to any person desiring to travel across such bridge shall be guilty of an offence and shall be liable upon summary conviction thereof to a penalty not exceeding $50.

(4) Every person who uses any bridge the property of his Majesty in connection with the movement of any portable steam engine or any steam traction engine shall provide sufficient plank of not less than two inches in thickness and twelve inches in width to be laid longitudinally upon the flooring of such bridge under the wheels of such portable steam engine or steam traction engine; and any person neglecting or refusing to provide and use such planks shall be guilty of an offence and liable upon summary conviction thereof to a penalty not exceeding $50. 1901, c. 4, s. 74.

### GENERAL.

Registration of plan to vest streets, etc., in Crown

**75.** The registration in the land titles office of the plan of the subdivision into lots or blocks of any land not within the limits of an incorporated city or town shall vest the title to all streets, lanes, parks or other reserves for public purposes shown on such plan in his Majesty; and no change or alteration in the boundaries of any such street, lane, park or public reserve shall be made without the consent of the commissioner having been first obtained. 1901, c. 4, s. 75.

**76.** *A tracing or lithographed copy of the plan of every subdivision of any section or quarter section of land or any river lot or block within the Territories into lots or blocks shall be filed in the department within thirty days after the original is filed in the land titles office for the district within which such land is situated.*

(2) *Such copy shall be duly certified as being a correct copy of the original plan of such subdivision by the surveyor who makes the survey of the same or by the owner of the land shown on such plan or some person on his behalf.* 1904, c. 2, s. 2.

Lieutenant Governor to prescribe forms

**77.** The Lieutenant Governor in Council may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance. 1901, c. 4, s. 77.

Repeal **78.** Chapter 9 of *The Consolidated Ordinances 1898,* chapter 15 of *The Consolidated Ordinances 1898,* chapter 18 of *The Consolidated Ordinances 1898* and chapter 4 of the Ordinances of 1900 are hereby repealed. 1901, c. 4, s. 78.

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## QUAKERS MARRIAGES.

*See* MARRIAGE.

## QUARANTINE.

*See* PUBLIC HEALTH.

## RAILWAYS.

*See* ASSESSMENT OF RAILWAYS.
STOCK INJURED BY RAILWAY TRAINS.

## REAL PROPERTY.

*See* DISTRESS.
LIENS ON LAND FOR TAXES.
LIMITATION OF ACTIONS.
RELIGIOUS CONGREGATIONS.
TAX SALES OF LAND.
TAXES A LIEN ON LAND.
TENANCY IN COMMON.

## REGISTRATION OF BIRTHS, MARRIAGES AND DEATHS.

*See* VITAL STATISTICS.

## REGISTRATION OF PARTNERSHIPS.

*See* PARTNERSHIPS.

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## RELIGIOUS SOCIETIES' AND CONGREGATIONS' LANDS.

C.O 1898, c 38
15 March, 1899

### An Ordinance respecting the Holding of Lands in Trust for Religious Societies and Congregations.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Trustee may be appointed to hold lands. **1.** When any religious society or congregation of Christians in the Territories desire to take a conveyance or transfer of land for the site of a church, chapel, meeting house, burial ground, residence or glebe for the minister or for the support of public worship and the propagation of Christian knowledge such society or congregation may appoint trustees, to whom and their successors to be appointed in such manner as may be specified in the deed of conveyance or transfer or by resolution passed in the manner provided for in the tenth section of this Ordinance the land requisite for all or any of the purposes aforesaid may be conveyed or transferred and such trustees and their successors in perpetual succession by the name expressed in the deed or resolution may take, hold and possess the land and maintain and defend all actions or suits for the protection thereof or of their property therein:

**Lands not to exceed 320 acres**

Provided always that no religious society or congregation shall be capable of holding under the provisions of this Ordinance more than three hundred and twenty acres of land. C. O. 38, s. 1.

**Conveyance to be registered within one year**

2. Such trustees shall within twelve months after the execution of the transfer or deed of conveyance as authorised in the next preceding section cause the title to the land described therein to be registered in the land titles office of the land registration district in which the land is situated, otherwise the said deed or transfer shall be void. C. O. 38, s. 2.

**Debts secured by mortgage**

3. When a debt has been or may hereafter be contracted for the building, repairing, extending or improving a church, chapel, meeting house or residence for the minister on land held by trustees under the provisions of this Ordinance or for the purchase of the land on which the same has been or is intended to be erected the trustees or a majority of them may from time to time secure payment of the debt or any part thereof with or without interest by mortgage upon the land, church, chapel, meeting house or residence for the minister or may borrow money to pay the debt or any part thereof and may secure the repayment of the loan with or without interest by a like mortgage. C. O. 38, s. 3.

**Power to borrow**

**Land may be leased**

4. The trustees may lease for any term not exceeding twenty-one years land held by them under this Ordinance or part thereof at such rent and upon such terms as the trustees or a majority of them may deem reasonable:

Provided always that the trustees shall not lease any land which at the time of the making of the lease is necessary for the purpose of erecting a church, chapel, meeting house or residence for the minister or for a burial ground for the religious society or congregation for whose use the land is held; and

**When consent of society or congregation to lease necessary**

Provided further that the trustees shall not lease the land so held by them or any part thereof for a term exceeding three years without the consent of the religious society or congregation for whose use the land is held, which consent shall be signified by resolution passed by the votes of a majority of those persons who by the constitution of the said religious society or congregation or by the practice of the church with which it is connected are entitled to vote in respect of church business, present at a meeting of the religious society or congregation duly called for the purpose of considering the proposed lease. C. O. 38, s. 4.

**Renewal of lease**

5. In any lease made under the last preceding section the trustees may covenant or agree for the renewal thereof at the expiration of any or every term of twenty-one years for a further term of twenty-one years or any less period at such rent and on such terms as may then by the trustees for the time being be agreed upon with the lessee, his executors, administrators or assigns or may covenant or agree for the payment to the lessee, his executors, administrators or assigns of the value of any buildings or other improvements which may at the expiration of any term be on the demised premises; and the mode of ascertaining the amount of such rent or the value of such improvements may also be provided for in the original or any subsequent lease. C. O. 38, s. 5.

**Trustees to have powers of landlords**

6. The trustees for the time being holding land under this Ordinance which has been leased under the powers contained in the fourth and fifth sections of this Ordinance may take all such means and proceedings for the recovery of rent or arrears of rent which landlords are by law entitled to take. C. O. 38, s. 6.

**Sale of land**

7. When land held by trustees for the use of a religious society or congregation becomes unnecessary to be retained for such use and it is deemed advantageous to sell the same the trustees for the time being may give public notice of an intended sale, specifying the premises to be sold, the terms of payment and the time of sale and after publication of the notice not less than once in each week for four successive weeks in a newspaper published in or near the place where the land is situated, sell the land at public auction according to notice, but the trustees shall not be obliged to complete or carry a sale into effect if in their judgment an adequate price is not offered for the land; and in such case the trustees may at a subsequent time sell the land either at public auction or private sale but a less sum shall not be accepted at private sale than was offered at public sale. C. O. 38, s. 7.

**Sanction of judge to transfer**

**8.** Before a deed or transfer is executed in pursuance of a public or private sale the religious society or congregation for whose use the land is held shall be notified and the sanction of a judge of the supreme court usually exercising jurisdiction in the judicial district in which the land is situated, obtained for the execution of the deed. C. O. 38, s. 8.

**Annual statement**

**9.** Trustees selling or leasing land under the authority of this Ordinance shall in the month of January in each year at a meeting of the religious society or congregation duly called according to the constitution thereof or according to the practice of the church with which it is connected, have ready and open for the inspection of the said society or congregation and of any and every member thereof a statement showing all rents which accrued during the preceding year and all sums of money in their hands for the use and benefit of the said society or congregation which were in any manner derived from the land under their control or subject to their management or from the proceeds of the sale thereof and also showing the manner in which they may have expended or dealt with the said money or any part thereof. C. O. 38, s. 9.

**Society or congregation may specify manner of appointing succeeding trustees**

**10.** When land is granted, transferred or conveyed to trustees for the use of any religious society or congregation and the grant, transfer or deed of conveyance of such land does not specify the manner in which the successors to the trustees therein named are to be appointed the religious society or congregation for whose use such land is held may at a meeting of the said society or congregation duly called according to the constitution thereof or according to the practice of the church with which it is connected, by the votes of a majority of those persons who by the constitution of the said society or congregation or by the practice of the church with which it is connected are entitled to vote in respect of church business, then present at such meeting, pass a resolution specifying the manner in which the successors of the trustees for the time then being are to be appointed and such resolution indorsed on or annexed to the deed, transfer or conveyance under which the land is held for the use of the said society or congregation signed by the chairman and secretary of the meeting at which the resolution is adopted shall govern and regulate the manner in which the successors of the trustees named in the original grant or conveyance shall be appointed and from and after the passing of such resolution the provisions of this Ordinance shall apply to the said society or congregaton and the trustees thereof. C. O. 38, s. 10.

Presbyterian congregations

Exception

**11.** In the case of a congregation connected with the Presbyterian Church in Canada for the use or benefit of which land is now held or may hereafter be held by The Board of Management of the Church and Manse Building Fund of the Presbyterian Church in Canada for Manitoba and the North-West pursuant to the powers contained in the Act of Parliament of Canada passed in the forty-sixth year of the reign of her Majesty and chaptered 97, incorporating the said board of management, in the case of any congregation of the said church which has received from the said board a loan under the provisions of the said Act, no resolution passed under the last preceding section shall have any force or be operative until the same has been submitted to the said board of management and the consent thereto of the said board of management has been engrossed in writing under their corporate seal. C. O. 38, s. 11.

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## REMISSION OF PENALTIES.

1900, c. 9
4 May, 1900

### An Ordinance respecting the Remission of Certain Penalties.

[*Assented to May 4, 1900.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Lieutenant Governor may remit penalties

**1.** The Lieutenant Governor in Council shall have power at any time to remit any pecuniary penalty or forfeiture imposed by any Ordinance of the North-West Territories in whole or in part, unless the same is imposed by *An Ordinance respecting the Legislative Assembly of the Territories* or by some Ordinance respecting elections of members of the Legislative Assembly or is recoverable in respect of an offence committed in connection with an election of a member of the said Assembly. 1900, c. 9, s. 1.

Statement to be submitted to Legislative Assembly

**2.** A detailed statement of all remissions made under the authority of the last preceding section shall be submitted to the Legislative Assembly within the first fifteen days of the next ensuing session thereof. 1900, c. 9, s. 2.

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## RENTS.

*See* DISTRESS FOR RENT.

# SALES.

*See* BILLS OF SALE.
CONDITIONAL SALES.
SALE OF GOODS.

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# SALE OF GOODS.

## An Ordinance respecting the Sale of Goods.

C.O. 1898, c. 39
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Sale of Goods Ordinance."* C. O. 39, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance unless the context or subject matter otherwise requires: Interpretation

(*a*) "Action" includes counterclaim and set off;

(*b*) "Buyer" means a person who buys or agrees to buy goods;

(*c*) "Contract of sale" includes an agreement to sell as well as the sale;

(*d*) "Delivery" means voluntary transfer of possession from one person to another;

(*e*) "Document of title to goods" has the same meaning as it has in *The Factors' Ordinance;*

(*f*) *"Factors' Ordinance"* means *The Factors' Ordinance* and any enactment amending or substituted for the same;

(*g*) "Fault" means wrongful act or default;

(*h*) "Future goods" means goods to be manufactured or acquired by the seller after the making of the contract of sale;

(*i*) "Goods" includes all chattels personal other than things in action or money. The term includes implements, industrial growing crops and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

(*j*) "Property" means the general property in goods and not merely a special property;

(*k*) "Quality of goods" includes their state or condition;

(*l*) "Sale" includes a bargain and sale as well as a sale and delivery;

(*m*) "Seller" means a person who sells or agrees to sell goods;

(*n*) "Specific goods" means goods identified and agreed upon at the time a contract of sale is made;

(*o*) "Warranty" means an agreement with reference to goods which are the subject of a contract of sale but collateral to the main purpose of such contract, the breach of which gives rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated.

(2) A thing is deemed to be done "in good faith" within the meaning of this Ordinance when it is in fact done honestly whether it be done negligently or not.

(3) A person is deemed to be insolvent within the meaning of this Ordinance who either has ceased to pay his debts in the ordinary course of business or cannot pay his debts as they become due.

(4) Goods are in a "deliverable state" within the meaning of this Ordinance when they are in such a state that the buyer would under the contract be bound to take delivery of them. C. O. 39, s. 2.

## PART I.

### FORMATION OF THE CONTRACT.

### *Contract of Sale.*

**Sale and agreement to sell**

**3.** A contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a money consideration called the price. There may be a contract of sale between one part owner and another.

(2) A contract of sale may be absolute or conditional.

(3) Where under a contract of sale the property in the goods is transferred from the seller to the buyer the contract is called a sale; but where the transfer of the property in the goods is to take place at a future time or subject to some condition thereafter to be fulfilled the contract is called an agreement to sell.

(4) An agreement to sell becomes a sale when the time elapses or the conditions are fulfilled subject to which the property in the goods is to be transferred. C. O. 39, s. 3.

**Capacity to buy and sell**

**4.** Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property:

**Proviso**

Provided that where necessaries are sold and delivered to an infant or minor or to a person who by reason of mental incapacity or drunkenness is incompetent to contract he must pay a reasonable price therefor. "Necessaries" in this section means goods suitable to the condition in life of such infant or minor or other person and to his actual requirements at the time of the sale and delivery. C. O. 39, s. 4.

### *Formalities of the Contract.*

**Contract of sale, how made**

**5.** Subject to the provisions of this Ordinance and of any Ordinance in that behalf a contract of sale may be made in writing (either with or without seal) or by word of mouth or partly in writing and partly by word of mouth or may be implied from the conduct of the parties:

**Proviso**

Provided that nothing in this section shall affect the law relating to corporations. C. O. 39, s. 5.

**Contract of sale for $50 and upwards**

**6.** A contract for the sale of any goods of the value of fifty dollars or upwards shall not be enforceable by action unless the buyer shall accept part of the goods so sold and actually receive the same or give something in earnest to bind the contract or in part payment or unless some note or memorandum in writing of the contract be made and signed by the party to be charged or his agent in that behalf.

(2) The provisions of this section apply to every such contract notwithstanding that the goods may be intended to be delivered at some future time or may not at the time of such contract be actually made, procured or provided or fit or ready for delivery or some act may be requisite for the making or completing thereof or rendering the same fit for delivery.

(3) There is an acceptance of goods within the meaning of this section when the buyer does any act in relation to the goods which recognises a pre-existing contract of sale whether there be an acceptance in performance of the contract or not. C. O. 39, s. 6.

### *Subject Matter of Contract.*

**Existing or future goods**

**7.** The goods which form the subject of a contract of sale may be either existing goods owned or possessed by the seller or goods to be manufactured or acquired by the seller after the making of the contract of sale, in this Ordinance called "future goods."

(2) There may be a contract for the sale of goods the acquisition of which by the seller depends upon a contingency which may or may not happen.

(3) Where by contract of sale the seller purports to effect a present sale of future goods the contract operates as an agreement to sell the goods. C. O. 39, s. 7.

Goods which have perished

**8.** Where there is a contract for the sale of specific goods and the goods without the knowledge of the seller have perished at the time when the contract is made, the contract is void. C. O. 39, s. 8.

Goods perishing before sale but after agreement to sell

**9.** Where there is an agreement to sell specific goods and subsequently the goods without any fault on the part of the seller or buyer perish before the risk passes to the buyer the agreement is thereby avoided. C. O. 39, s. 9.

### *The Price.*

Ascertainment of price

**10.** The price in a contract of sale may be fixed by the contract or may be left to be fixed in manner thereby agreed or may be determined by the course of dealing between the parties.

(2) Where the price is not determined in accordance with the foregoing provisions the buyer must pay a reasonable price. What is a reasonable price is a question of fact dependent on the circumstances of each particular case. C. O. 39, s. 10.

Agreement to sell at valuation

**11.** Where there is an agreement to sell goods on the terms that the price is to be fixed by the valuation of a third party and such third party cannot or does not make such valuation the agreement is avoided:

Provided that if the goods or any part thereof have been delivered to and appropriated by the buyer he must pay a reasonable price therefor.

(2) Where such third party is prevented from making the valuation by the fault of the seller or buyer, the party not in fault may maintain an action for damages against the party in fault. C. O. 39, s. 11.

### *Conditions and Warranties.*

Stipulations as to time

**12.** Unless a different intention appears from the terms of the contract stipulations as to time of payment are not deemed to be of the essence of a contract of sale. Whether any other stipulation as to time is of the essence of the contract or not depends on the terms of the contract.

(2) In a contract for sale "month" means *prima facie* calendar month. C. O. 39, s. 12.

**When condition to be treated as warranty**

**13.** Where a contract or sale is subject to any condition to be fulfilled by the seller the buyer may waive the condition or may elect to treat the breach of such condition as a breach of warranty and not as a ground for treating the contract as repudiated.

(*a*) Whether a stipulation in a contract of sale is a condition the breach of which may give rise to a right to treat the contract as repudiated or a warranty the breach of which may give rise to a claim for damages but not to a right to reject the goods and treat the contract as repudiated depends in each case on the construction of the contract. A stipulation may be a condition though called a warranty in the contract;

(*b*) Where a contract of sale is not severable and the buyer has accepted the goods or part thereof or where the contract is for specific goods the property in which has passed to the buyer, the breach of any condition to be fulfilled by the seller can only be treated as a breach of warranty and not as a ground for rejecting the goods and treating the contract as repudiated unless there be a term of the contract expressed or implied to that effect.

(2) Nothing in this section shall affect the case of any condition or warranty fulfilment of which is excused by law by reason of impossibility or otherwise. C. O. 39, s. 13.

**Implied undertaking as to title, etc.**

**14.** In a contract of sale unless the circumstances of the contract are such as to show a different intention there is:

1. An implied condition on the part of the seller that in the case of a sale he has a right to sell the goods and that in the case of an agreement to sell he will have a right to sell the goods at the time when the property is to pass;

2. An implied warranty that the buyer shall have and enjoy quiet possession of the goods;

3. An implied warranty that the goods shall be free from any charge or incumbrance in favour of any third party not declared or known to the buyer before or at the time when the contract is made. C. O. 39, s. 14.

**Sale by description**

**15.** When there is a contract for the sale of goods by description there is an implied condition that the goods shall correspond with the description; and if the sale be by sample as well as by description it is not sufficient that the bulk of the goods corresponds with the sample if the goods do not also correspond with the description. C. O. 39, s. 15.

**Implied conditions as to quality or fitness**

**16.** Subject to the provisions of this Ordinance and of any Ordinance in that behalf there is no implied warranty or condition as to the quality or fitness for any particular purpose of goods supplied under a contract of sale except as follows:

1. Where the buyer expressly or by implication makes known to the seller the particular purpose for which the goods are required so as to show that the buyer relies on the seller's skill or judgment and the goods are of a description which it is in the course of the seller's business to supply (whether he be the manufacturer or not) there is an implied condition that the goods shall be reasonably fit for such purpose:

~~Provided that in the case of a contract for the sale of a specified article under its patent or other trade name there is no implied condition as to its fitness for any particular purpose;~~

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2. Where goods are bought by description from a seller who deals in goods of that description (whether he be the manufacturer or not) there is an implied condition that the goods shall be of merchantable quality:

Provided that if the buyer has examined the goods there shall be no implied condition as regards defects which such examination ought to have revealed;

3. An implied warranty or condition as to quality or fitness for a particular purpose may be annexed by the usage of trade;

4. An express warranty or condition does not negative a warranty or condition implied by this Ordinance unless inconsistent therewith. C. O. 39, s. 16.

*Sale by Sample.*

**Sale by sample**

**17.** A contract of sale is a contract for sale by sample where there is a term in the contract express or implied to that effect.

(2) In the case of a contract for sale by sample:

(*a*) There is an implied condition that the bulk shall correspond with the sample in quality;

(*b*) There is an implied condition that the buyer shall have a reasonable opportunity of comparing the bulk with the sample;

(c) There is an implied condition that the goods shall be free from any defect rendering them unmerchantable which would not be apparent on reasonable examination of the sample. C. O. 39, s. 17.

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## PART II.

### EFFECTS OF THE CONTRACT.

*Transfer of Property as between Seller and Buyer.*

**Goods must be ascertained**

**18.** Where there is a contract for the sale of unascertained goods no property in the goods is transferred to the buyer unless and until the goods are ascertained. C. O. 39, s. 18.

**Property passes when intended to pass**

**19.** Where there is a contract for the sale of specific or ascertained goods the property in them is transferred to the buyer at such time as the parties to the contract intend it to be transferred.

(2) For the purpose of ascertaining the intention of the parties regard shall be had to the terms of the contract, the conduct of the parties and the circumstances of the case. C. O. 39, s. 19.

**Rules for ascertaining intention**

**20.** Unless a different intention appears the following are rules for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer:

*Rule I.*—Where there is an unconditional contract for the sale of specific goods in a deliverable state the property in the goods passes to the buyer when the contract is made and it is immaterial whether the time of payment or the time of delivery or both be postponed.

*Rule II.*—Where there is a contract for the sale of specific goods and the seller is bound to do something to the goods for the purpose of putting them into a deliverable state the property does not pass until such thing be done and the buyer has notice thereof.

*Rule III.*—Where there is a contract for the sale of specific goods in a deliverable state but the seller is bound to weigh, measure, test or do some other act or thing with reference to the goods for the purpose of ascertaining the price, the property does not pass until such act or thing be done and the buyer has notice thereof.

*Rule IV.*—When goods are delivered to the buyer on approval or "on sale or return" or other similar terms the property therein passes to the buyer:

(*a*) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;

(*b*) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection then if a time has been fixed for the return of the goods, on the expiration of such time; and, if no time has been fixed, on the expiration of a reasonable time. What is a reasonable time is a question of fact.

*Rule V.*—Where there is a contract for the sale of unascertained or future goods by description and goods of that description and in a deliverable state are unconditionally appropriated to the contract either by the seller with the assent of the buyer or by the buyer with the assent of the seller the property in the goods thereupon passes to the buyer. Such assent may be expressed or implied and may be given either before or after the appropriation is made;

(2) Where in pursuance of the contract the seller delivers the goods to the buyer or to a carrier or other bailee or custodier (whether named by the buyer or not) for the purpose of transmission to the buyer and does not reserve the right of disposal he is deemed to have unconditionally appropriated the goods to the contract. C. O. 39, s. 20.

**Reservation of right of disposal**

**21.** Where there is a contract for the sale of specific goods or where goods are subsequently appropriated to the contract the seller may by the terms of the contract or appropriation reserve the right of disposal of the goods until certain conditions are fulfilled. In such case, notwithstanding the delivery of the goods to the buyer or to a carrier or other bailee or custodier for the purpose of transmission to the buyer, the property in the goods does not pass to the buyer until the conditions imposed by the seller are fulfilled.

2. Where goods are shipped and by the bill of lading the goods are deliverable to the order of the seller or his agent the seller is *prima facie* deemed to have the right of disposal.

3. Where the seller of goods draws on the buyer for the price and transmits the bill of exchange and bill of lading to the buyer together to secure acceptance or payment of the bill of exchange, the buyer is bound to return the bill of lading if

he does not honour the bill of exchange and if he wrongfully retains the bill of lading the property in the goods does not pass to him. C. O. 39, s. 21.

Risk *prima facie* passes with property

**22.** Unless otherwise agreed the goods remain at the seller's risk until the property therein is transferred to the buyer but when the property therein is transferred to the buyer the goods are at the buyer's risk whether delivery has been made or not:

Provided that where delivery has been delayed through the fault of either buyer or seller the goods are at the risk of the party in fault as regards any loss which might not have occurred but for such fault:

Provided also that nothing in this section shall affect the duties or liabilities of either seller or buyer as a bailee or custodier of the goods of the other party. C. O. 39, s. 22.

### *Transfer of Title.*

Sale by person not owner

**23.** Subject to the provisions of this Ordinance, where goods are sold by a person who is not the owner thereof and who does not sell them under the authority or with the consent of the owner, the buyer acquires no better title to the goods than the seller had unless the owner of the goods is by his conduct precluded from denying the seller's authority to sell:

Provided also that nothing in this Ordinance shall affect:

(*a*) The provisions of *The Factors' Ordinance* or any enactment enabling the apparent owner of goods to dispose of them as if he were the true owner thereof;

(*b*) The validity of any contract or sale under any special common law or statutory power of sale or under the order of a court of competent jurisdiction. C. O. 39, s. 23.

Sale under voidable title

**24.** When the seller of goods has a voidable title thereto but his title has not been voided at the time of sale the buyer acquires a good title to the goods provided he buys them in good faith and without notice of the seller's defect of title. C. O. 39, s. 24.

Seller or buyer in possession after sale

**25.** Where a person having sold goods continues or is in possession of the goods or of the documents of title to the goods the delivery or transfer by that person or by a mercantile agent acting for him, of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of the previous sale, shall have the same effect as if the person making the delivery or transfer was expressly authorised by the owner of the goods to make the same.

(2) Where a person having bought or agreed to buy goods obtains with the consent of the seller possession of the goods or the documents of title to the goods, the delivery or transfer by that person or by a mercantile agent acting for him of the goods or documents of title under any sale, pledge or other disposition thereof to any person receiving the same in good faith and without notice of any lien or other right of the original seller in respect of the goods shall have the same effect as if the person making the delivery or transfer were a mercantile agent in possession of the goods or documents of title with the consent of the owner.

(3) In this section the term "mercantile agent" has the same meaning as in *The Factors' Ordinance.* C. O. 39, s. 25.

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## PART III.

### PERFORMANCE OF THE CONTRACT.

Duties seller and buyer

**26.** It is the duty of the seller to deliver the goods and of the buyer to accept and pay for them in accordance with the terms of the contract of sale. C. O. 39, s. 26.

Payment and delivery are concurrent conditions

**27.** Unless otherwise agreed delivery of the goods and payment of the price are concurrent conditions; that is to say, the seller must be ready and willing to give possession of the goods to the buyer in exchange for the price and the buyer must be ready and willing to pay the price in exchange for possession of the goods. C. O. 39, s. 27.

Rules as to delivery

**28.** Whether it is for the buyer to take possession of the goods or for the seller to send them to the buyer is a question depending in each case on the contract express or implied between the parties. Apart from any such contract express or implied the place of delivery is the seller's place of business if he have one and, if not, his residence:

Provided that if the contract be for the sale of specific goods which to the knowledge of the parties when the contract is made are in some other place, then that place is the place of delivery.

(2) Where under the contract of sale the seller is bound to send the goods to the buyer but no time for sending them is fixed the seller is bound to send them within a reasonable time.

(3) Where the goods at the time of the sale are in possession of a third person there is no delivery by seller to buyer unless and until such third person acknowledges to the buyer that he holds the goods on his behalf:

Provided that nothing in this section shall affect the operation of the issue or transfer of any document of title to goods.

(4) Demand or tender of delivery may be treated as ineffectual unless made at a reasonable hour. What is a reasonable hour is a question of fact.

(5) Unless otherwise agreed the expenses of and incidental to putting the goods into a deliverable state must be borne by the seller. C. O. 39, s. 28.

**Delivery of wrong quantity**

**29.** Where the seller delivers to the buyer a quantity of goods less than he contracted to sell the buyer may reject them but if the buyer accepts the goods so delivered he must pay for them at contract rate.

(2) Where the seller delivers to the buyer a quantity of goods larger than he contracted to sell the buyer may accept the goods included in the contract and reject the rest or he may reject the whole. If the buyer accepts the whole of the goods so delivered he must pay for them at the contract rate.

(3) Where the seller delivers to the buyer goods he contracted to sell mixed with goods of a different description not included in the contract, the buyer may accept the goods which are in accordance with the contract and reject the rest or he may reject the whole.

(4) The provisions of this section are subject to any usage of trade, special agreement or course of dealing between the parties. C. O. 39, s. 29.

**Instalment deliveries**

**30.** Unless otherwise agreed the buyer of goods is not bound to accept delivery thereof by instalments.

(2) Where there is a contract for the sale of goods to be delivered by stated instalments which are to be separately paid for and the seller makes defective deliveries in respect of one or more instalments or the buyer neglects or refuses to take delivery of or pay for one or more instalments, it is a question in each case depending on the terms of the contract and the circumstances of the case whether the breach of contract is a repudiation of the whole contract or whether it is a severable breach giving rise to a claim for compensation but not to a right to treat the whole contract as repudiated. C. O. 39, s. 30.

**Delivery to carrier**

**31.** Where in pursuance of a contract of sale the seller is authorised or required to send the goods to the buyer delivery of the goods to a carrier, whether named by the buyer or not, for the purpose of transmission to the buyer is *prima facie* deemed to be a delivery of the goods to the buyer.

(2) Unless otherwise authorised by the buyer the seller must make such contract with the carrier on behalf of the buyer as may be reasonable having regard to the nature of the goods and the other circumstances of the case. If the seller omits so to do and the goods are lost or damaged in course of transit the buyer may decline to treat the delivery to the carrier as a delivery to himself or may hold the seller responsible in damages.

(3) Unless otherwise agreed where goods are sent by the seller to the buyer by a route involving sea transit under circumstances in which it is usual to insure, the seller must give such notice to the buyer as may enable him to insure them during their sea transit and if the seller fails to do so the goods shall be deemed to be at his risk during such sea transit. C. O. 39, s. 31.

**Risk where goods delivered at distant place**

**32.** Where the seller of goods agrees to deliver them at his own risk at a place other than that where they are when sold the buyer must nevertheless unless otherwise agreed take any risk of deterioration in the goods necessarily incident to the course of transit. C. O. 39, s. 32.

**Buyer's right of examining goods**

**33.** Where goods are delivered to the buyer which he has not previously examined he is not deemed to have accepted them unless and until he has had a reasonable opportunity of examining them for the purpose of ascertaining whether they are in conformity with the contract.

(2) Unless otherwise agreed when the seller tenders delivery of goods to the buyer he is bound on request to afford the buyer a reasonable opportunity of examining the goods for the purpose of ascertaining whether they are in conformity with the contract. C. O. 39, s. 33.

**Acceptance**

**34.** The buyer is deemed to have accepted the goods when he intimates to the seller that he has accepted them or when the goods have been delivered to him and he does any act in relation to them which is inconsistent with the ownership of the seller or when after the lapse of a reasonable time he retains the goods without intimating to the seller that he has rejected them. C. O. 39, s. 34.

**Buyer not bound to return rejected goods**

**35.** Unless otherwise agreed where goods are delivered to the buyer and he refuses to accept them having the right so to do, he is not bound to return them to the seller but it is sufficient if he intimates to the seller that he refuses to accept them. C. O. 39, s. 35.

Liability of buyer for neglecting or refusing delivery of goods

**36.** When the seller is ready and willing to deliver the goods and requests the buyer to take delivery and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods:

Provided that nothing in this section shall affect the rights of the seller where the neglect or refusal of the buyer to take delivery amounts to a repudiation of the contract. C. O. 39, s. 36.

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## PART IV.

### RIGHTS OF UNPAID SELLER AGAINST THE GOODS.

Unpaid seller defined

**37.** The seller of the goods is deemed to be an "unpaid seller" within the meaning of this Ordinance:

(*a*) When the whole of the contract price has not been paid or tendered;

(*b*) When a bill of exchange or other negotiable instrument has been received as conditional payment and the condition on which it was received has not been fulfilled by reason of the dishonour of the instrument or otherwise.

(2) In this part of this Ordinance the term "seller" includes any person who is in the position of a seller as for instance an agent of the seller to whom the bill of lading has been indorsed or a consigner or agent who has himself paid or is directly responsible for the price. C. O. 39, s. 37.

Unpaid seller's rights

**38.** Subject to the provisions of this Ordinance and of any Ordinance in that behalf, notwithstanding that the property in the goods may have passed to the buyer the unpaid seller of goods as such has by implication of law:

(*a*) A lien on the goods or right to retain them for the price while he is in possession of them;

(*b*) In the case of the insolvency of the buyer a right of stopping the goods *in transitu* after he has parted with the possession of them;

(*c*) A right of resale as limited by this Ordinance.

(2) Where the property in goods has not passed to the buyer the unpaid seller has in addition to his other remedies a right of withholding delivery similar to and coextensive with his rights of lien and stoppage *in transitu* where the property has passed to the buyer. C. O. 39, s. 38.

### *Unpaid Seller's Lien.*

Seller's lien

**39.** Subject to the provisions of this Ordinance the unpaid seller of goods who is in possession of them is entitled to retain possession of them until payment or tender of the price, in the following cases namely:

(*a*) Where the goods have been sold without any stipulation as to credit;

(*b*) Where the goods have been sold on credit but the term of credit has expired;

(*c*) Where the buyer becomes insolvent.

(2) The seller may exercise his right of lien notwithstanding that he is in possession of the goods as agent or bailee for the buyer. C. O. 39, s. 39.

Part delivery

**40.** Where an unpaid seller has made part delivery of the goods he may exercise his right of lien or retention on the remainder unless such part delivery has been made under such circumstances as to show an agreement to waive the lien or right of retention. C. O. 39, s. 40.

Termination of lien

**41.** The unpaid seller of goods loses his lien or right of retention thereon:

(*a*) When he delivers the goods to a carrier or other bailee for the purpose of transmission to the buyer without reserving the right of disposal of the goods;

(*b*) When the buyer or his agent lawfully obtains possession of the goods;

(*c*) By waiver thereof.

(2) The unpaid seller of goods having a lien or right of retention thereon does not lose his lien or right of retention by reason only that he has obtained judgment or decree for the price of the goods. C. O. 39, s. 41.

### *Stoppage in Transitu.*

Right of stoppage *in transitu*

**42.** Subject to the provisions of this Ordinance when the buyer of goods becomes insolvent the unpaid seller who has parted with the possession of the goods has the right of stopping them *in transitu* that is to say he may resume possession of the goods as long as they are in course of transit and may retain them until payment or tender of the price. C. O. 39, s. 42.

**43.** Goods are deemed to be in course of transit from the time when they are delivered to a carrier by land or water or other bailee for the purpose of transmission to the buyer until the buyer or his agent in that behalf takes delivery of them from such carrier or other bailee. **Duration of transit**

(2) If the buyer or his agent in that behalf obtains delivery of the goods before their arrival at the appointed destination the transit is at an end.

(3) If after the arrival of the goods at the appointed destination the carrier or other bailee acknowledges to the buyer or his agent that he holds the goods on his behalf and continues in possession of them as bailee for the buyer or his agent the transit is at an end and it is immaterial that a further destination for the goods may have been indicated by the buyer.

(4) If the goods are rejected by the buyer and the carrier or other bailee continues in possession of them the transit is not deemed to be at an end even if the seller has refused to receive them back.

(5) When goods are delivered to a ship chartered by the buyer it is a question depending on the circumstances of the particular case whether they are in the possession of the master as a carrier or as agent to the buyer.

(6) Where the carrier or other bailee wrongfully refuses to deliver the goods to the buyer or his agent in that behalf the transit is deemed to be at an end.

(7) Where part delivery of the goods has been made to the buyer or his agent in that behalf the remainder of the goods may be stopped *in transitu* unless such part delivery has been made under such circumstances as to show an agreement to give up possession of the whole of the goods. C. O. 39, s. 43.

**44.** The unpaid seller may exercise his right of stoppage *in transitu* either by taking actual possession of the goods or by giving notice of his claim to the carrier or other bailee in whose possession the goods are. Such notice may be given either to the person in actual possession of the goods or to his principal. In the latter case the notice to be effectual must be given at such time and under such circumstances that the principal by the exercise of reasonable diligence may communicate it to his servant or agent in time to prevent a delivery to the buyer. **How stoppage *in transitu* effected**

(2) When notice of stoppage *in transitu* is given by the seller to the carrier or other bailee in possession of the goods he must redeliver the goods to or according to the direction of the seller. The expenses of such redelivery must be borne by the seller. C. O. 39, s. 44.

### *Resale by Buyer or Seller.*

Effect of subsale or pledge by buyer

**45.** Subject to the provisions of this Ordinance the unpaid seller's right of lien or retention or stoppage *in transitu* is not affected by any sale or other disposition of the goods which the buyer may have made unless the seller has assented thereto:

Provided that where a document of title of goods has been lawfully transferred to any person as buyer or owner of the goods and that person transfers the document to a person who takes the document in good faith and for valuable consideration then if such last mentioned transfer was by way of sale, the unpaid seller's right of lien or retention or stoppage *in transitu* is defeated and if such last mentioned transfer was by way of pledge or other disposition for value the unpaid seller's right of lien or retention or stoppage *in transitu* can only be exercised subject to the rights of the transferee. C. O. 39, s. 45.

Sale not generally rescinded by lien or stoppage *in transitu*

**46.** Subject to the provisions of this section a contract of sale is not rescinded by the mere exercise by an unpaid seller of his right of lien or retention or stoppage *in transitu*.

(2) Where an unpaid seller who has exercised his right of lien or retention or stoppage *in transitu* resells the goods the buyer acquires a good title thereto as against the original buyer.

(3) Where the goods are of a perishable nature or where the unpaid seller gives notice to the buyer of his intention to resell and the buyer does not within a reasonable time pay or tender the price the unpaid seller may resell the goods and recover from the original buyer damages for any loss occasioned by his breach of contract.

(4) Where the seller expressly reserves a right of resale in case the buyer should make default and on the buyer making default resells the goods the original contract of sale is thereby rescinded but without prejudice to any claim the seller may have for damages. C. O. 39, s. 46.

## PART V.

### ACTIONS FOR BREACH OF THE CONTRACT.

### *Remedies of the Seller.*

Action for price

**47.** Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract the seller may maintain an action against him for the price of the goods.

(2) Where under a contract of sale the price is payable on a day certain, irrespective of delivery, and the buyer wrongfully neglects or refuses to pay such price the seller may maintain an action for the price although the property in the goods has not passed and the goods have not been appropriated to the contract.

(3) Nothing in this section shall prejudice the right of the seller to recover interest on the price from the date of tender of the goods or from the date on which the price was payable as the case may be. C. O. 39, s. 47.

**Damages for non-acceptance**

**48.** Where the buyer wrongfully neglects or refuses to accept and pay for the goods the seller may maintain an action against him for damages for nonacceptance.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the buyer's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price at the time or times when the goods ought to have been accepted or if no time was fixed for acceptance then at the time of the refusal to accept. C. O. 39, s. 48.

*Remedies of the Buyer.*

**Damages for nondelivery**

**49.** Where the seller wrongfully neglects or refuses to deliver the goods to the buyer the buyer may maintain an action against the seller for damages for nondelivery.

(2) The measure of damages is the estimated loss directly and naturally resulting in the ordinary course of events from the seller's breach of contract.

(3) Where there is an available market for the goods in question the measure of damages is *prima facie* to be ascertained by the difference between the contract price and the market or current price of the goods at the time or times when they ought to have been delivered or if no time was fixed then at the time of the refusal to deliver. C. O. 39, s. 49.

**Specific performance**

**50.** In any action for breach of contract to deliver specific or ascertained goods the court may if it thinks fit on the application of the plaintiff by its judgment or decree direct that the contract shall be performed specifically without giving the defendant the option of retaining the goods or payment of damages. The judgment or decree may be unconditional or upon such terms and conditions as to damages, payment of the price and otherwise as to the court may seem just and the application by the plaintiff may be made at any time before judgment or decree. C. O. 39, s. 50.

**Remedy for breach of warranty**

**51.** Where there is a breach of warranty by the seller or where the buyer elects or is compelled to treat any breach of a condition on the part of the seller as a breach of warranty the buyer is not by reason only of such breach of warranty entitled to reject the goods; but he may:

(*a*) Set up against the seller the breach of warranty in diminution or extinction of the price; or

(*b*) Maintain an action against the seller for damages for the breach of warranty.

(2) The measure of damages for breach of warranty is the estimated loss directly and naturally resulting in the ordinary course of events from the breach of warranty.

(3) In the case of breach of warranty of quality such loss is *prima facie* the difference between the value of the goods at the time of delivery to the buyer and the value they would have had if they had answered to the warranty.

(4) The fact that the buyer has set up the breach of warranty in diminution or extinction of the price does not prevent him from maintaining an action for the same breach of warranty if he has suffered further damage. C. O. 39, s. 51.

**Interest and special damages**

**52.** Nothing in this Ordinance shall affect the right of the buyer or the seller to recover interest or special damages in any case where by law interest or special damages may be recoverable or to recover money paid where the consideration for the payment of it has failed. C. O. 39, s. 52.

## PART VI.

### SUPPLEMENTARY.

**Exclusion of implied terms and conditions**

**53.** Where any right, duty or liability would arise under a contract of sale by implication of law it may be negatived or varied by express agreement or by the course of dealing between the parties or by usage if the usage be such as to bind both parties to the contract. C. O. 39, s. 53.

**54.** Where by this Ordinance any reference is made to a reasonable time the question what is a reasonable time is a question of fact. C. O. 39, s. 54.

Reasonable time a question of fact

**55.** Where any right, duty or liability is declared by this Ordinance it may unless otherwise by this Ordinance provided be enforced by action. C. O. 39, s. 55.

Rights, etc., enforceable by action

**56.** In the case of a sale by auction where goods are put up for sale by auction in lots each lot is *prima facie* deemed to be the subject of a separate contract of sale.

Auction sales

(2) A sale by auction is complete when the auctioneer announces its completion by the fall of the hammer or in other customary manner. Until such announcement is made any bidder may retract his bid.

(3) Where a sale by auction is not notified to be subject to a right to bid on behalf of the seller it shall not be lawful for the seller to bid himself or to employ any person to bid at such sale or for the auctioneer knowingly to take any bid from the seller or any such person. Any sale contravening this rule may be treated as fraudulent by the buyer.

(4) A sale by auction may be notified to be subject to a reserve or upset price and the right to bid may also be reserved expressly by or on behalf of the seller. Where a right to bid is expressly reserved, but not otherwise, the seller or any one person on his behalf may bid at the auction. C. O. 39, s. 56.

**57.** Where a buyer has elected to accept goods which he might have rejected and to treat a breach of contract as only giving rise to a claim for damages he may in an action by the seller for the price be required in the discretion of the court before which the action depends to consign or pay into court the price of the goods or part thereof or to give other reasonable security for the due payment thereof. C. O. 39, s. 57.

Payment into court when breach of warranty alleged

**58.** The rules of the common law including the law merchant save in so far as they are inconsistent with the express provisions of this Ordinance and in particular the rules relating to the law of principal and agent and the effect of fraud, misrepresentation, duress, or coercion, mistake or other invalidating cause shall continue to apply to contracts for the sale of goods.

Existing laws preserved subject hereto

(2) Nothing in this Ordinance shall affect the enactments relating to bills of sale or any enactment relating to the sale of goods which is not expressly repealed by this Ordinance.

Mortgages or pledges

(3) The provisions of this Ordinance relating to contracts of sale do not apply to any transaction in the form of a contract of sale which is intended to operate by way of mortgage, pledge, charge or other security. C. O. 39, s. 58.

## SALE STABLES.

*See* LIVERY AND SALES STABLES.

## SCHOOLS.

| | |
|---|---|
| *Principal Ordinance* | *1901, c. 29* |
| *Amending Ordinance* | *1903, sess. 2, c. 27.* |

1901, c. 29
13 June 1901

### An Ordinance respecting Schools.

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The School Ordinance."* 1901, c. 29, s. 1.

INTERPRETATION.

Interpretation

**2.** In this Ordinance except the context otherwise requires:

Department

1. The expression "department" means the department of education;

Commissioner

2. The expression "commissioner" means the commissioner of education;

Council

3. The expression "council" means the educational council;

Inspector

4. The expression "inspector" means any school inspector appointed under this Ordinance;

District

5. The expression "district" means any school district erected or constituted as such at the date of the coming into force of this Ordinance and any school district hereafter erected or constituted under the provisions hereof;

Rural district

6. The expression "rural district" means any school district situated wholly outside the limits of any town or city municipality or any village:

Provided that in case any rural district or any portion thereof is included in any village that may hereafter be organised such district shall for the purposes of this Ordinance be deemed a rural district until the end of the then current calendar year;

**Village district**

7. The expression "village district" means any school district situated wholly or in part within the limits of any village: *Provided that in case any village in which is situate in whole or in part a village district is at any time incorporated as a town such village district shall for the purposes of this Ordinance be deemed to continue to be a village district until the end of the then current calendar year;*

**Town district**

8. The expression "town district" means any school district situated wholly or in part within the limits of any town or city municipality;

**Ratepayer**

9. The expression "ratepayer" means any person of the full age of twenty-one years whose name appears on the last revised assessment roll of the district and who has paid all taxes due by him to the said district; *or in the case of a district in which there has been no revised assessment roll any person of the full age of twenty-one years who has owned or been occupant of assessable property therein for a period of at least two months;*

**Resident ratepayer**

10. The expression "resident ratepayer" means:

(*a*) In any proposed district any person of the full age of twenty-one years actually residing therein and who has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to the date of the first school meeting;

(*b*) In any established district in which there has been no revised assessment roll of the district any person of the full age of twenty-one years actually residing therein and who has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to the date of any school meeting;

(*c*) In any other district any person of the full age of twenty-one years actually residing therein whose name appears on the last revised assessment roll of the district and who has paid all taxes due by him to such district;

**Board**

11. The expression "board" means the board of trustees of any district;

**Teacher** 12. The expression "teacher" means any person holding a legal certificate of qualification;

**Owner** 13. *The expression "owner" includes any person who by any right, title or estate whatsoever is or is entitled to be in possession of any land in a district;*

**Occupant** 14. *The expression "occupant" includes inhabitant occupier of any land of if there be no inhabitant occupier the person entitled to the possession thereof and the leaseholder or holder under agreement for lease and holder under agreement for sale and any person having or enjoying in any way or for any purpose whatsoever the use of land;*

**Taxpayer** 15. *The expression "taxpayer" means any person who is the owner or occupant of lands in respect of which some person is or may be assessed.* 1901, c. 29, s. 2, and 1903, Sess. 2, c. 27, s. 1.

## DEPARTMENT OF EDUCATION.

**Organisation** **3.** There shall be a department of the public service of the Territories called the department of education over which the member of the executive council appointed by the Lieutenant Governor in Council under the seal of the Territories to discharge the functions of the commissioner of education for the time being shall preside.

(2) The Lieutenant Governor in Council may appoint such officers, clerks and servants as are required for the proper conduct of the business of the department and for the purposes of this Ordinance all of whom shall hold office during pleasure. 1901, c. 29, s. 3.

**Functions** **4.** The department shall have the control and management of all kindergarten schools, public and separate schools, normal schools, teachers' institutes and the education of deaf, deaf mute and blind persons. 1901, c. 29, s. 4.

**Administration** **5.** The commissioner shall have the administration, control and management of the department and shall oversee and direct the officers, clerks and servants thereof. 1901, c. 29, s. 5.

### *Regulations of the Department.*

**6.** The commissioner with the approval of the Lieutenant Governor in council shall have power:

1. To make regulations of the department:

(a) For the classification, organisation, government, examination and inspection of all schools hereinbefore mentioned; Schools and courses of study

(b) For the construction, furnishing and care of school buildings and the arrangement of school premises; School buildings and grounds

(c) For the examination, licensing and grading of teachers and for the examination of persons who may desire to enter professions or who may wish certificates of having completed courses of study in any school; Examination of teachers

(d) For a teachers' reading course and teachers' institutes and conventions; Teachers' institutes

2. To authorise text and reference books for the use of the pupils and teachers in all schools hereinbefore mentioned as well as such maps, globes, charts and other apparatus or equipment as may be required for giving proper instruction in such schools; Text books and apparatus

3. To prepare a list of books suitable for school libraries and to make regulations for the management of such libraries; School libraries

4. To make due provision for the training of teachers. 1901, c. 29, s. 6. Normal schools

## *Powers of the Commissioner.*

7. It shall be the duty of the commissioner and he shall have power: Powers of commissioner

1. To appoint one or more persons to inquire into and report upon any appeal, complaint or dispute arising from the decision of any board or inspector or other school official or upon the condition of one or more schools or upon the financial condition of any district or upon any other school matter; and such person or persons shall have power to take evidence under oath or by affirmation; and the commissioner upon receipt of such report shall make such order thereon as to him shall seem proper; Appeals, disputes and complaints

2. To appoint an official trustee to conduct the affairs of any district; and any such official trustee shall have all the powers and authorities conferred by this Ordinance upon a board and its officers; and shall be remunerated out of the funds of the district or otherwise as the Lieutenant Governor in Council may decide, and upon the appointment of any such official trustee the board of any district for which he is appointed shall cease to hold office as such; Official trustees

Unorganised districts

3. To appoint some person to inquire into and report upon the conditions existing in any portion of the Territories that may not have been erected into a school district and subject to the provisions of this Ordinance in that behalf to take such action thereon as to him may seem expedient; and such person shall receive such remuneration as the Lieutenant Governor in Council may determine;

Cancel certificates

4. To suspend or cancel for cause any certificate granted under the regulations of the department;

Advice to trustees

5. To cause to be prepared and printed recommendations and advice on the management of schools and districts for trustees and teachers;

Forms

6 To prepare suitable forms and give such instructions as may be necessary for making all reports and carrying out the provisions of this Ordinance;

Call meetings

7. To appoint some person to call any school meeting required to be held under this Ordinance when there is no person authorised to call such meeting or when the person so authorised neglects or refuses to act;

Plans for schools

8. To cause to be prepared plans of buildings suitable for schools of one or two rooms;

Annual report

9. To report annually to the Lieutenant Governor in Council upon all schools and institutes herein mentioned with such statements and suggestions for promoting education generally as he may deem expedient;

10. To make any provision not inconsistent with this Ordinance that may be necessary to meet exigencies under its operation. 1901, c. 29, s. 7.

### EDUCATIONAL COUNCIL.

Members

**8.** There shall be an educational council consisting of five persons at least two of whom shall be roman catholics to be appointed by the Lieutenant Governor in Council; who shall receive such remuneration as the Lieutenant Governor in Council shall determine.

Term of office

(2) On the first constitution of the council three of the members shall be appointed for three years and two for two years; and thereafter each member appointed shall hold office for two years. 1901, c. 29, s. 8.

Meetings

**9.** *Meetings of the council shall be held at such times and places as may be determined by the commissioner but at least one meeting shall be held in each calendar year.* 1903, Sess. 2, c. 27, s. 2.

Subjects for consideration

**10.** All general regulations respecting the inspection of schools, the examination, training, licensing and grading of teachers, course of study, teachers' institutes and text and reference books shall before being adopted or amended be referred to the council for its discussion and report. 1901, c. 29, s. 10.

Report of council

**11.** The council shall consider such matters as may be referred to it as hereinbefore provided or by the commissioner and may also consider any question concerning the educational system of the Territories as to it may seem fit and shall report thereon to the Lieutenant Governor in Council. 1901, c. 29, s. 11.

### FORMATION OF PUBLIC SCHOOL DISTRICTS.

Conditions necessary for erection of district

**12.** Any portion of the Territories may be erected into a public school district provided that:

(*a*) It does not exceed five miles in length or breadth exclusive of road allowances;

(*b*) It contains four persons actually resident therein who on the erection of the district would be liable to assessment and twelve children between the ages of five and sixteen inclusive:

Special cases—other boundaries permitted

Provided however that in special cases the commissioner may permit the boundaries of any district to exceed five miles in length or breadth or either. 1901, c. 29, s. 12.

Committee for erection of district

**13.** Any three residents in any area fulfilling the requirements of the next preceding section may be formed or may form themselves into a committee to procure its erection into a district and may petition the commissioner for such erection.

Petition

(2) The petition shall be in form prescribed by the commissioner. 1901, c. 29, s. 13.

### *First School Meeting.*

Notice of first school meeting

**14.** On receiving the approval of the commissioner to the limits and name of any proposed district a notice calling a meeting of the ratepayers shall be posted up by the petitioners in at least five widely separated places within such limits one of which shall be the post office therein if there be such post office and if there be no post office therein a sixth notice shall be posted in the nearest post office thereto at least two weeks prior to the date of said meeting.

Form

(2) The notice may be in form prescribed by the commissioner. 1901, c. 29, s. 14.

Proof of posting

**15.** Satisfactory proof that the notices have been posted up as hereinbefore provided shall be furnished by solemn declaration in form prescribed by the commissioner. 1901, c. 29, s. 15.

First meeting

Chairman

Secretary

**16.** At one o'clock in the afternoon standard time of the day appointed in the notice calling the first school meeting the resident ratepayers present shall elect one of their number as chairman to preside over their proceedings and shall also appoint a secretary who shall record the minutes of the meeting and perform such other duties as may be required of him by this Ordinance. 1901, c. 29, s. 16.

Chairman to sign declaration

**17.** The chairman shall upon his appointment sign the declaration provided in form A in the schedule to this Ordinance. 1901, c. 29, s. 17.

Ratepayers to sign declaration

Ratepayers right to vote

**18.** After the election of a chairman any person wishing to take any part in the meeting or vote thereat shall be required to sign in the presence of the chairman and secretary the declaration provided in form A in the schedule to this Ordinance and no person shall be allowed to take part in the meeting or vote thereat unless and until he shall have signed such declaration.

Penalty for false declaration

(2) Any person subscribing to a declaration form A containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10.

Declaration to be forwarded to commissioner

(3) Any declaration made under the provisions of this section shall be forwarded by the chairman to the commissioner. 1901, c. 29, s. 18.

Chairman not to vote

**19.** The chairman may not vote on any question whether the same is to be decided by a show of hands or a poll but in case of a tie he must give a casting vote. 1901, c. 29, s. 19.

Poll for formation of district

**20.** Upon his appointment and before any other business is transacted except as provided in section 18 of this Ordinance the chairman shall immediately cause a poll to be taken of the votes of the resident ratepayers for and against the formation of the proposed district. 1901, c. 29, s. 20.

Chairman presides secretary records votes

**21.** On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given in the form prescribed by the commissioner. 1901, c. 29, s. 21.

**22.** The poll shall remain open for one hour at the end of which time it shall be closed by the chairman who shall then sum up the votes. 1901, c. 29, s. 22. Closing poll

**23.** If the result of the poll is favourable to the formation of the district the chairman shall immediately call for nominations of persons to serve as trustees and the secretary shall record such nominations in the order in which they are made. 1901, c. 29, s. 23. Nominations for trustees

**24.** The persons nominated for the position of trustees shall be resident ratepayers of the proposed district and shall be able to read and write. 1901, c. 29, s. 24. Qualification of candidates

**25.** Each candidate for the position of trustee shall be nominated by a mover and seconder both of whom shall be resident ratepayers of the proposed district. 1901, c. 29, s. 25. How nominated

**26.** Nominations shall be received by the chairman for thirty minutes after he first calls for the same. 1901, c. 29, s. 26. Time for nomination

**27.** In case the number of nominations does not exceed three the chairman shall declare the persons nominated to be elected. 1901, c. 29, s. 27. Acclamation

**28.** If more than three candidates are nominated the chairman shall at the close of the time for nominations declare a poll open for the election of trustees. 1901, c. 29, s. 28. Poll for election of trustees

**29.** On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given in the form prescribed by the commissioner. 1901, c. 29, s. 29. Chairman to preside

**30.** Every resident ratepayer shall have three votes but shall in no case vote more than once for any one candidate at the same election. 1901, c. 29, s. 30. Ratepayer's votes

**31.** The poll shall remain open for one hour at the end of which time it shall be closed by the chairman who shall then sum up the votes and declare the result. 1901, c. 29, s. 31. Closing poll

**32.** Within ten days after the date of the first school meeting the chairman shall send to the department certified copies of: Chairman to forward minutes to department (*a*) The minutes of the meeting;

(*b*) The poll for the erection of the district;

(*c*) The poll for the election of trustees;

(*d*) The notice calling the meeting.

(*e*) *The declaration of posting notices required by section 15.* 1901, c. 29, s. 32, and 1903, Sess. 2, c. 27, s. 3.

### *Order for Erection of School District.*

Commissioner may order erection of district

**33.** Upon the receipt of the returns mentioned in the next preceding section and upon being satisfied that all the requirements and provisions of this Ordinance with reference to the formation of the district have been complied with the commissioner may order the erection of the proposed district into a school district and assign to it a name and number.

Notice in official gazette

(2) Notice of the erection of the district shall be published in the official gazette; and such notice shall be conclusive evidence of the erection of the district and that all the necessary formalities have been complied with. 1901, c. 29, s. 33.

Investigation of disputed election, etc.

**34.** Whenever complaint is made that the election of any trustee or that the proceedings or any part thereof of any first or other school meeting in any rural district have not been in conformity with this Ordinance the commissioner may upon receiving the complaint of any ratepayer verified by solemn declaration of the complainant investigate the matter and render any decision in and about the same as to him shall appear proper

(2) No such complaint shall be entertained by the commissioner unless made to him in writing within twenty days after the holding of the election or meeting. 1901, c. 29, s. 34.

### *Name of School District.*

Name of district

**35.** Every district created under this Ordinance shall be entitled "The School District No. of the North-West Territories."

Alteration of name

(2) The commissioner may from time to time alter the name of any district upon the petition of the board of such district and notice of such alteration shall be published in the official gazette but in such cases the seal theretofore used by such district shall continue to be the seal thereof until changed by the board.

Effect of change

(3) No change in the name of any district made in accordance with the provisions of this Ordinance shall affect any obligations, rights, actions or property incurred, established, done or acquired prior to such change. 1901, c. 29, s. 35.

### FIRST BOARD OF TRUSTEES.

### *Term of Office.*

Terms of office of trustees elected at first school meeting

**36.** The trustees elected at the first school meeting in any district shall hold office as follows: The trustee receiving the greatest number of votes shall hold office until the third annual meeting of the district is held; the trustee receiving the next greatest number of votes until the second annual meeting is held; and the trustee receiving the lowest number of votes until the first annual meeting is held:

Provided that in case there is no vote taken the trustees elected shall respectively hold office in the order in which they are nominated until third, second and first annual meeting of the district is held:

Provided further that if any two or more trustees elected receive an equal number of votes they shall respectively hold office in the manner provided in the next preceding proviso:

Provided further that if the annual meeting of a district is not held in any year it shall for the purposes of this section be deemed to have been held at the regular time. 1901, c. 29, s. 36.

### *Declaration of Office.*

Declaration of office

**37.** Every trustee shall before the first meeting of the board is held make the following declaration before the chairman of the meeting at which he was elected or a justice of the peace or commissioner for taking affidavits:

I, *A.B.*, do hereby accept the office of trustee to which I have been elected in (*name of school district in full*) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee.

Dated this day
of 190 *A.B.,*
*Trustee.*

Certificate of declaration

(2) The chairman, justice of the peace or commissioner shall thereupon grant him a certificate in the following form:

I, *C.D.*, do hereby certify that (*give name, residence and occupation of the person mentioned*) elected trustee for (*give name of school district*) has this day made before me the declaration of office as prescribed by *The School Ordinance* in that behalf. *C.D.,*
*Chairman, J. P., or Commissioner.*

Dated this day
of 190 . 1901, c. 29, s. 37.

(*a*) The minutes of the meeting;

(*b*) The poll for the erection of the district;

(*c*) The poll for the election of trustees;

(*d*) The notice calling the meeting.

(*e*) *The declaration of posting notices required by section 15.* 1901, c. 29, s. 32, and 1903, Sess. 2, c. 27, s. 3.

*Order for Erection of School District.*

Commissioner may order erection of district

**33.** Upon the receipt of the returns mentioned in the next preceding section and upon being satisfied that all the requirements and provisions of this Ordinance with reference to the formation of the district have been complied with the commissioner may order the erection of the proposed district into a school district and assign to it a name and number.

Notice in official gazette

(2) Notice of the erection of the district shall be published in the official gazette; and such notice shall be conclusive evidence of the erection of the district and that all the necessary formalities have been complied with. 1901, c. 29, s. 33.

Investigation of disputed election, etc.

**34.** Whenever complaint is made that the election of any trustee or that the proceedings or any part thereof of any first or other school meeting in any rural district have not been in conformity with this Ordinance the commissioner may upon receiving the complaint of any ratepayer verified by solemn declaration of the complainant investigate the matter and render any decision in and about the same as to him shall appear proper

(2) No such complaint shall be entertained by the commissioner unless made to him in writing within twenty days after the holding of the election or meeting. 1901, c. 29, s. 34.

*Name of School District.*

Name of district

**35.** Every district created under this Ordinance shall be entitled "The School District No. of the North-West Territories."

Alteration of name

(2) The commissioner may from time to time alter the name of any district upon the petition of the board of such district and notice of such alteration shall be published in the official gazette but in such cases the seal theretofore used by such district shall continue to be the seal thereof until changed by the board.

Effect of change

(3) No change in the name of any district made in accordance with the provisions of this Ordinance shall affect any obligations, rights, actions or property incurred, established, done or acquired prior to such change. 1901, c. 29, s. 35.

## FIRST BOARD OF TRUSTEES.

### *Term of Office.*

Term of office of trustees elected at first school meeting

**36.** The trustees elected at the first school meeting in any district shall hold office as follows: The trustee receiving the greatest number of votes shall hold office until the third annual meeting of the district is held; the trustee receiving the next greatest number of votes until the second annual meeting is held; and the trustee receiving the lowest number of votes until the first annual meeting is held:

Provided that in case there is no vote taken the trustees elected shall respectively hold office in the order in which they are nominated until third, second and first annual meeting of the district is held:

Provided further that if any two or more trustees elected receive an equal number of votes they shall respectively hold office in the manner provided in the next preceding proviso:

Provided further that if the annual meeting of a district is not held in any year it shall for the purposes of this section be deemed to have been held at the regular time. 1901, c. 29, s. 36.

### *Declaration of Office.*

Declaration of office

**37.** Every trustee shall before the first meeting of the board is held make the following declaration before the chairman of the meeting at which he was elected or a justice of the peace or commissioner for taking affidavits:

I, *A.B.*, do hereby accept the office of trustee to which I have been elected in (*name of school district in full*) and I will to the best of my ability honestly and faithfully discharge the duties devolving on me as such trustee.

Dated this day
of 190
*A.B.*,
*Trustee.*

Certificate of declaration

(2) The chairman, justice of the peace or commissioner shall thereupon grant him a certificate in the following form:

I, *C.D.*, do hereby certify that (*give name, residence and occupation* of the person who has been elected trustee for (*give name of school district*) has this day made before me the declaration of office as provided by *The School Ordinance* in that behalf.
*C.D.*,
*Chairman, J. P., or Commissioner.*

Dated this day
of 190 . 1901, c. 29, s. 37.

### *Organisation of Board.*

First meeting of board

**38.** Upon the erection of a district the trustee elected for the longest term shall be notified of the erection of the district by the commissioner; and he shall thereupon within ten days after receipt of such notice call a meeting of the board in the manner provided by this Ordinance for calling such meetings for the purpose of choosing one of its number as chairman and appointing a secretary, treasurer or secretary treasurer and transacting such other business as may be necessary. 1901, c. 29, s. 38.

### FORMATION OF SCHOOL DISTRICT BY COMMISSIONER.

Erection of district on order of commissioner

**39.** In case any portion of the Territories not exceeding five miles in length or breadth exclusive of road allowances has not been erected into a school district the commissioner may order the erection of such portion into a district provided that it contains:

(*a*) Twenty children between the ages of five and sixteen inclusive;

(*b*) Ten persons actually residing therein who on the erection of the district would be liable to assessment;

(*c*) Six thousand acres of assessable land;

and notice of the erection of any such district shall be published in the official gazette which notice shall be conclusive evidence that the district has been duly erected and constituted in accordance with the provisions of this Ordinance. 1901, c. 29, s. 39.

Election of trustees

**40.** In case of the erection of any district in accordance with the provisions of the next preceding section the commissioner may appoint some person to call a meeting of the resident ratepayers of the district to elect trustees which person shall act as chairman of the meeting; and the election held shall be conducted in the manner provided for the election of trustees at a first school meeting; and the trustees elected shall within ten days after their election take the declaration of office and meet to organise the board as hereinbefore provided. 1901, c. 29, s. 40.

### SEPARATE SCHOOLS.

Separate schools

**41.** The minority of the ratepayers in any district whether protestant or roman catholic may establish a separate school therein; and in such case the ratepayers establishing such protestant or roman catholic separate school shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. 1901, c. 29, s. 41.

Assessments

Petition for erection

**42.** The petition for the erection of a separate school district shall be signed by three resident ratepayers of the religious faith indicated in the name of the proposed district; and shall be in the form prescribed by the commissioner. 1901, c. 29, s. 42.

Qualification of voters

**43.** The persons qualified to vote for or against the erection of a separate school district shall be the ratepayers in the district of the same religious faith protestant or roman catholic as the petitioners. 1901, c. 29, s. 43.

Notice of ratepayers' meetings

**44.** The notice calling a meeting of the ratepayers for the purpose of taking their votes on the petition for the erection of a separate school district shall be in the form prescribed by the commissioner and the proceedings subsequent to the posting of such notice shall be the same as prescribed in the formation of public school districts. 1901, c. 29, s. 44.

Subsequent proceedings

Rights and liabilities of separate school districts

**45.** After the establishment of a separate school district under the provisions of this Ordinance such separate school district and the board thereof shall possess and exercise all rights, powers, privileges and be subject to the same liabilities and method of government as is herein provided in respect of public school districts.

Assessment

(2) Any person who is legally assessed or assessable for a public school shall not be liable to assessment for any separate school established therein. 1901, c. 29, s. 45.

### SCHOOL SITE.

In rural district

**46.** In every rural district the board shall acquire a site in the centre of the district or as near thereto as the road allowances and the securing of a dry, healthy and suitable location will permit, but in the event of it not being found convenient to have the school site located exactly in the centre of the district the board before acquiring any other site shall petition the commissioner to have it located elsewhere; and such petition shall be accompanied by a plan of the district showing:

(*a*) The proposed site;

(*b*) The quarter sections upon which the resident ratepayers live;

(*c*) The quarter sections upon which the children between the ages of five and sixteen inclusive reside;

(*d*) The position of the travelled roads, bridges and physical features such as lakes, sloughs, rivers and creeks.

(2) *In the event of its being shown to the satisfaction of the commissioner that the title of any site approved by him cannot be obtained by the district by reason of the refusal or failure of the owner to sell such site or to accept a fair price for it or by reason of a mortgagee or other person interested in such site refusing or failing to release his mortgage or interest the commissioner may execute a transfer of the said site in favour of the district and upon application* ex parte *to a judge of the supreme court and upon presentation of such transfer he shall make an order vesting the title of the lands described in the transfer in the school district free from all charges and incumbrances other than taxes.*

(3) *The amount and in case there are more parties than one interested the manner of payment of the compensation to be paid for the site acquired under the provisions of the next preceding subsection shall be determined by two arbitrators, one appointed by the district and the other by the owner or persons interested under the provisions of The Arbitration Ordinance.* 1901, c. 29, s. 46, and 1903, Sess. 2, c. 27, s. 4.

**In town or village district**

**47.** In every town or village district the board may select such site as in its judgment is desirable subject to ratification by the ratepayers in the case of debentures being issued. 1901, c. 29, s. 47.

ALTERATION IN LIMITS OF SCHOOL DISTRICTS.

**Alteration of boundaries**

**48.** The commissioner may by order notice of which shall be published in the official gazette alter the boundaries of any district by adding thereto or taking therefrom or divide one or more existing districts into two or more districts or unite portions of any existing district with another district or with any new district in case it has been satisfactorily shown that the rights of ratepayers under section 14 of *The North-West Territories Act* to be affected thereby will not be prejudiced and that the proposed changes are for the general advantage of those concerned. 1901, c. 29, s. 48.

**Security of debentures**

**49.** In the case of any district having debenture indebtedness outstanding no alteration shall be made in the boundaries thereof which will prejudicially affect the rights or security of the holder of such debentures without due provision being made for the protection of such holder. 1901, c. 29, s. 49.

Adjustment of assets and liabilities

**50.** Upon the alteration of the boundaries of any district due provision shall be made for the settlement and adjustment of the assets and liabilities of the same between the districts into which the same may be divided or between the same and the portions thereof added to or taken therefrom; and the commissioner may cause the necessary inquiries to be made in order to ascertain and determine the due proportion of such assets and liabilities and the best method of settling and adjusting the same as aforesaid and may in his discretion appoint one or more persons to make such inquiries and report thereon and may prescribe and declare the terms of such settlement and adjustment and the manner in which the same shall be carried into effect and in cases in which by the terms of such settlement and adjustment any rates or taxes are required to be levied or collected upon property in any division of such district or taken from such district may prescribe by whom, at what times and in what manner such rates and taxes shall be raised, levied and collected and to whom the same or any part thereof shall be paid and by what district or districts, in what proportions and to whom the expenses of such settlement and adjustment shall be paid. 1901, c. 29, s. 50.

### DISORGANISATION OF SCHOOL DISTRICTS.

Disorganisation of districts

**51.** The Lieutenant Governor in Council may by order notice of which shall be published in the official gazette declare that on or after a day therein to be named any district shall be disorganised and thereupon the same and the board thereof shall cease to have or enjoy any of the rights, powers and privileges vested in such corporations by this Ordinance; and upon any such disorganisation of a district the commissioner may appoint one or more persons to adjust and settle the assets and liabilities of such district; and such person or persons so appointed shall have full power and authority to sell and dispose of and convert into money all the assets and property of such district and apply the same so far as the same will extend: first in payment of the liabilities of the said district; and second in payment of his or their remuneration as hereinafter mentioned and divide the surplus if any *pro rata* among the ratepayers of the said district entitled to share therein; and in case the amount so realised shall be insufficient to pay and satisfy the liabilities of the said district and his or their remuneration then such person or persons shall have full power and authority to assess, levy, collect and enforce payment in the same manner as boards, assessors, collectors and treasurers are authorised to do by *The School Assessment Ordinance* of such sum or sums of money as may be required

Adjustment of assets and liabilities

to pay and satisfy such indebtedness or any balance thereof remaining unpaid and all expenses connected therewith including his or their remuneration which shall be fixed by the commissioner. 1901, c. 29, s. 51.

### UNION OF PUBLIC AND SEPARATE SCHOOL DISTRICTS.

Union of public and separate school districts

52. If in any area there exist a public school district and a separate school district and it is resolved by the ratepayers of each of such school districts at a public meeting of such ratepayers respectively called for the purpose of considering the question that it is expedient that such districts should be disorganised for the purpose of the union of the same and the erection of such area into a public school district the commissioner may by order notice of which shall be published in the official gazette disorganise such existing districts and erect such area into a public school district with such name as he may decide upon; and thereafter the commissioner may make such orders, provisions and appointments as to him shall appear proper for the carrying into effect of such disorganisation and the erection of the public school district and as to all matters incident thereto and necessary for the establishment and operation of the same as a public school district and for the carrying out therein of all the provisions of this Ordinance and for the adjustment, arrangement and winding up of all the affairs of such disorganised districts and for the settlement of their liabilities and disposition of their assets:

Provided that unless the liabilities of such disorganised districts are not otherwise liquidated the same shall be assumed by and imposed upon such newly created district and any debentures issued by the disorganised districts or either of them shall have force and effect upon the newly established district and the property and rates thereof as they had upon the district by which they were respectively issued and its property and rates; and the trustees of such newly organised district may authorise and direct the levy and collection of such rate or rates as may from time to time be necessary for the discharging of any liability or debenture indebtedness of a disorganised district assumed by or imposed upon such new district. 1901, c. 29, s. 52

### ANNUAL SCHOOL MEETING.

#### *In Rural and Village Districts.*

Time and place of meeting

53. An annual meeting of the ratepayers of every rural and village district shall be held in the school house or some other suitable place within the district not later than the fifteenth

day of January in each year commencing at the hour of ten o'clock in the forenoon standard time. 1901, c. 29, s. 53.

Public notice of meeting

**54.** The meeting shall be called by the board which shall at least eight days before the day for which the meeting is called post public notices giving the day, place and hour of meeting; and such notices shall be posted up in five conspicuous places within the district one of which shall be the post office and if there be no such post office a sixth notice shall be posted up in the post office nearest thereto. 1901, c. 29, s. 54.

Chairman and secretary

**55.** At the time hereinbefore provided for the commencement of the meeting the chairman of the board shall take the chair and call the meeting to order and the secretary of the board or some one appointed by the chairman shall record the minutes of the meeting and perform such other duties as may be required of him by this Ordinance.

(2) In the absence of the chairman the ratepayers present shall forthwith elect one of their number to preside. 1901, c. 29, s. 55.

Chairman's vote

**56.** The chairman may not vote on any question whether the same is to be decided by a show of hands or a poll but in case of a tie he must give a casting vote. 1901, c. 29, s. 56.

Qualification of voters

**57.** Any ratepayer whether resident or not who has paid all taxes due by him to the district shall be entitled to take part in the annual school meeting but only resident ratepayers shall be entitled to vote for the election of a trustee. 1901, c. 29, s. 57.

Ratepayer to sign declaration

**58.** The chairman shall if requested by any ratepayer or of his own accord require any person wishing to vote for the election of a trustee to subscribe to the declaration in form B (*a*) or B (*b*) in the schedule to this Ordinance; and any person subscribing to such declaration shall be permitted to vote at such election.

Witness

(2) Every such declaration shall be subscribed to in the presence of the chairman and secretary who shall subscribe their names as witnesses thereto.

Penalty for false declaration

(3) Any person subscribing to a declaration form B containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10.

(4) All declarations made under the provisions of the next preceding section shall be retained by the chairman. 1901, c. 29, s. 58.

meeting if the other business be not then concluded the chairman shall call for nominations for the office of trustee. 1901, c. 29, s. 61.

Qualification of candidates

**62.** Each person nominated for the office of trustee shall be a resident ratepayer of the district who has paid all taxes due by him to such district and is able to read and write. 1901, c. 29, s. 62.

Qualification of mover and seconder

**63.** Each candidate shall be nominated by a mover and seconder each of whom shall be a resident ratepayer of the district and shall have paid all taxes due respectively by him to such district. 1901, c. 29, s. 63.

Time of nominations

**64.** Nominations shall be received by the chairman for thirty minutes after he has first called for the same. 1901, c. 29, s. 64.

Acclamation

**65.** In case there is only one nomination the chairman shall declare the candidate nominated to be elected. 1901, c. 29, s. 65.

Poll for election of trustees

**66.** In case there are more nominations than one the chairman shall at the close of the time for receiving nominations declare a poll open for the election of a trustee. 1901, c. 29, s. 66.

Chairman presides

**67.** On the taking of the poll the chairman shall preside and the secretary shall record the votes as they are given as in form C in the schedule to this Ordinance. 1901, c. 29, s. 67.

Closing poll

**68.** The poll shall remain open for two hours at the end of which time it shall be closed by the chairman who shall sum up the votes and declare the result. 1901, c. 29, s. 68.

Copy of minutes for department

**69.** A copy of the minutes of every annual meeting signed by the chairman and the secretary of such meeting shall be forthwith transmitted to the department. 1901, c. 29, s. 69.

### *In Town Districts.*

Time and place for meeting

**70.** An annual meeting of the ratepayers of every town district shall be held at the same time and place as may be appointed for the nomination of councillors or aldermen. 1901, c. 29, s. 70.

Notice to municipality

**71.** The trustees of every town district shall give notice to the secretary treasurer of the municipality on or before the fifteenth day of November in each year of the number of vacancies required to be filled to make the board complete; and they shall on or before the first day of December in each year furnish the secretary treasurer of the municipality with a list of the resident ratepayers within any portion of the district which is not included in the limits of the municipality which list shall be delivered to the returning officer by the said secretary treasurer.

List of ratepayers not in municipality

Supporters of separate schools to be distinguished

(2) In the list of qualified voters to be delivered to the returning officer by the secretary treasurer of the municipality before the opening of the poll the secretary treasurer shall place opposite the names of any persons on the said list who have been returned to him as supporters of separate schools the letters "S.S.S.," and the returning officer shall not deliver to any such person a ballot paper for public school trustees.

No ballot to S.S S.

Rural or village district becoming a town district

(3) *Upon a rural or village district becoming a town district the first election for trustees shall be held at the time prescribed in this Ordinance for the annual election of trustees and at such election there shall be elected two trustees for a term of two years and one trustee for a term of one year and the two trustees of the district whose terms have not expired shall continue to hold office for the terms for which they were respectively elected.* 1901, c. 29, s. 71, and 1903, Sess. 2, c. 27, s. 5.

Municipal procedure to be used

**72.** In every case in which notice is given as aforesaid the nomination and election of trustees shall be held at the same time and place and by the same returning officer or officers and conducted in the same manner as municipal nominations and elections of councillors except as to qualification to vote which shall be as provided for in this Ordinance; and the provisions of *The Municipal Ordinance* respecting the time for receiving nominations and for opening and closing the poll, the mode of voting, corrupt or improper practices, vacancies and declarations of office shall *mutatis mutandis* apply to the election of school trustees. 1901, c. 29, s. 72.

Ballot for trustee election

**73.** A separate set of ballot papers shall be prepared by the returning officer containing the names of the candidates nominated for school trustees of the same form as those used for councillors except in the substitution of the words "school trustee" for "councillor" or "alderman" on said ballot paper. 1901, c. 29, s. 73.

Objection to vote

**74.** In case any objection is made to the right of any person to vote at an election of trustees in any town district the returning officer may require the person whose right of voting is objected to to make the following oath or affirmation:

Oath

I, *A.B.*, do solemnly swear or affirm that I am a *bona fide* resident ratepayer of (*give name of district in full*) and have paid all taxes due by me to the said school district; that I am of the full age of twenty-one years; that I have not before voted at this election; and that I have not received any reward either directly or indirectly nor have I any hope of receiving any reward for voting at this time and place. So help me God.

NOTE.—*In the case of an affirmation the words "So help me God" shall be omitted.*

And every person making such declaration shall be permitted to vote for the election of trustees. 1901, c. 29, s. 74.

Reports and statements for annual meeting

May not be read

May be published

**75.** At the annual meeting held in any town district the reading of any or all of the reports mentioned in section 60 of this Ordinance may be omitted upon a resolution being passed to that effect by the ratepayers present but any ratepayer of the district shall have access to such reports and statements either during or after the meeting is held; and the board if it deem it advisable or upon being authorised to do so by resolution of the ratepayers at the annual meeting may have any or all of such reports or statements or any parts of them except the inspector's reports printed in a newspaper published in the district. 1901, c. 29, s. 75.

Return for department

**76.** Within ten days after the annual election of trustees in any town district is held the secretary of the district shall forward to the department a certified copy of the returning officer's declaration as to the result of the poll. 1901, c. 29, s. 76.

### *Contested Elections in Town and Village Districts.*

Contested elections

**77.** In case the validity of the election of any school trustee in any town or village district is contested the same may be tried by a judge of the supreme court in chambers; and any ratepayer of the district may be the relator for the purpose; and the judge shall in such case have the like powers as in case of contested elections of councillors under *The Municipal Ordinance*; and the proceedings and rules which obtain in such cases shall *mutatis mutandis* be followed and observed in such contested elections of school trustees. 1901, c. 29, s. 77.

### DEFERRED SCHOOL MEETINGS.

**78.** In case from want of proper notice or other cause any first, annual or other school meeting required to be held under this Ordinance is not held at the proper time it shall be the duty of the secretary of the board when required to do so by any two resident ratepayers or by the commissioner to call a meeting of the ratepayers by posting notices in the manner prescribed by the Ordinance for such meeting; and the meeting thus called shall possess all the powers and perform all the duties of the meeting in the place of which it was called. 1901, c. 29, s. 78.

**Provisions when prescribed meetings are not held**

**Notice and powers of later meeting**

### SPECIAL MEETINGS OF RATEPAYERS.

**79.** A special meeting of the ratepayers of any district may be held at any time for any necessary purpose not otherwise provided for by this Ordinance. 1901, c. 29, s. 79.

**Special meetings**

**80.** It shall be the duty of the secretary of the board to call any special meeting when required to do so:

**Notice of and how called**

(*a*) By the board;

(*b*) By the commissioner;

(*c*) By an inspector;

(*d*) In town and village districts by a request in writing signed by ten resident ratepayers;

(*e*) In rural districts by a request in writing signed by a majority of the resident ratepayers.

(2) The notices calling a special meeting shall set forth the purpose of the meeting and shall be posted in the manner provided for notices of annual meetings in rural and village districts. 1901, c. 29, s. 80.

**81.** At the meeting so held the ratepayers present shall elect a chairman and secretary and no business shall be considered by the meeting other than that mentioned in the notices calling the same. 1901, c. 29, s. 81.

**Transaction limited to notice**

### AUDIT.

**82.** The books and accounts of every rural and village district shall be audited in each year prior to the annual meeting by an official auditor in the manner prescribed by the regulations of the department.

**Audit in rural and village districts**

(2) The fee payable for such audit shall be in the case of rural districts $3 and in the case of village districts $5 and shall be paid out of the funds of the district. 1901, c. 29, s. 82.

Audit in town districts

**83.** In every town district it shall be the duty of the auditor of the municipality to audit the books and accounts of such district in each year for which he shall receive no special remuneration out of the funds of the district. 1901, c. 29, s. 83.

## BOARD OF TRUSTEES.

### *Number of Members.*

Rural and village districts

Town districts

**84.** In rural and village districts there shall be three trustees each of whom after the first election shall hold office for three years and in town districts there shall be five trustees each of whom after the first election shall hold office for two years.

(2) Every trustee shall hold office until his successor is appointed. 1901, c. 29, s. 84.

### *Trustees a Body Corporate.*

Corporate name

**85.** The trustees of every district shall be a corporation under the name of "The Board of Trustees for the School District No. of the North-West Territories." 1901, c. 29, s. 85.

### *Organisation of Board.*

Declaration of office

**86.** Within ten days after his election at any meeting other than the first school meeting every trustee shall make the declaration of office provided for in section 37 of this Ordinance. 1901, c. 29, s. 86.

Time of first meeting

**87.** The board shall meet within ten days after such annual meeting or in the case of town districts within the first ten days of January in each year for the purpose of organising and transacting such other business as may be required. 1901, c. 29, s. 87.

Appointment of officers

Salaries

**88.** At the meeting thus held the board shall appoint a chairman and shall also appoint a secretary and a treasurer or secretary treasurer who shall respectively hold office during the pleasure of the board and shall be allowed such remuneration as the board may fix.

(2) Any member of the board other than the chairman may be appointed secretary, treasurer or secretary treasurer.

(3) The teacher of a school district may be appointed secretary but not treasurer or secretary treasurer. 1901, c. 29, s. 88.

### *Board Meetings.*

**89.** A meeting of the board may be called by the chairman or any trustee. 1901, c. 29, s. 89. How called

**90.** Every regular or special meeting of the board shall be called by giving two clear days' notice in writing which notice may be given by delivering such notice to each trustee or in the absence from his residence of any trustee to any adult person thereat: Notice

Provided that the board of any district may at any meeting at which all the members of the board are present decide by resolution to hold regular meetings of the board and such resolution shall state the day, hour and place of every such meeting and no further or other notice of any such meeting shall be necessary. Regular meetings

(2) The board may by unanimous consent waive notice of meeting and hold a meeting at any time which consent shall be subscribed to by each member of the board and shall be recorded in the minutes of the meeting in the following form: Waiver of notice

We the undersigned trustees of S.D. hereby waive notice of this meeting.

.......................... }
.......................... } *Trustees.*
.......................... }

1901, c. 29, s. 90.

**91.** No Act or proceeding of any kind shall be deemed valid or binding on any party which is not adopted at a regular or special meeting at which a quorum of the board is present. Corporate acts

(2) A majority of the board shall form a quorum. 1901, c. 29, s. 91. Quorum

**92.** If the number of trustees be reduced to one that one shall immediately take the necessary steps to fill the vacancies in the board but he shall not transact any other business of the district. 1901, c. 29, s. 92. One trustee not to act

**93.** All questions shall be submitted to the board on the motion of the chairman or any other trustee and no seconder shall be required. 1901, c. 29, s. 93. Motions

Votes of trustees

**94.** At all meetings of the board all questions shall be decided by the majority of the votes and the chairman shall have the right to vote but in case of an equality of votes the question shall be decided is the negative.

Chairman pro tem

(2) In case of absence of the chairman from any meeting of the board the trustees present shall elect one of their number to act as chairman of the meeting. 1901, c. 29, s. 94.

### *Duties of Trustees and Their Officers.*

Duties of trustees

**95.** It shall be the duty of the board of every district and it shall have power:

Appoint officers

1. To appoint a chairman, a secretary and treasurer or a secretary treasurer and such other officers and servants as may be required by this Ordinance;

Procure seal

2. To procure a corporate seal for the district;

Reports

3. To see that all the reports and statements required by this Ordinance or by the commissioner are transmitted to the department without delay;

Records and accounts

4. To keep a record of the proceedings of each meeting of the board signed by the chairman and secretary and see that true accounts both of the school and district are kept and that the affairs of the district generally are conducted in the manner provided by this Ordinance and with due regard to efficiency and economy;

Books

5. To provide the officers of the board with the books necessary for keeping proper records of the district;

Property

6. To take possession and to have the custody and safekeeping of all the property of the district;

School accommodation

7. To provide adequate school accommodation for the purposes of the district;

School grounds, buildings and equipment

8. To purchase or rent school sites or premises, and to build, repair, furnish and keep in order the school house or houses, furniture, fences and all other school property; to keep the well, closets and premises generally in a proper sanitary condition; and to make due provisions for properly lighting. heating, ventilating and cleaning the school room or rooms under its control and if deemed advisable to purchase or rent sites or premises for a house for the teacher and to build, repair and keep in order such house;

Drinking water

9. To provide wholesome drinking water for the use of the children during school hours;

10. To provide separate buildings for privies for boys and girls. The buildings shall be erected in the rear of the school house at least ten feet apart, their entrances facing in opposite directions or otherwise effectually screened from each other; Privies

11. To erect and keep in order if deemed advisable suitable stabling accommodation; Stable

12. To insure and keep insured the school buildings and equipment; Insurance

13. To provide when deemed expedient a suitable library for the school and to make regulations for its management; Library

14. To select and provide from the list authorised by the commissioner all such reference books for the use of pupils and teachers and all such globes, maps, charts and other apparatus as may be required for the proper instruction of pupils; Reference books and apparatus

15. To require that no text books or apparatus be used in the school under its control other than those authorised by the department; Authorised texts

16. To exempt in its discretion from the payment of school taxes wholly or in part any indigent persons resident within the district and where deemed necessary to provide for the children of such persons text books and other supplies at the expense of the district; Indigent persons

17. To engage a teacher or teachers duly qualified under the regulations of the department to teach in the school or schools in its charge on such terms as it may deem expedient; the contract wherefor shall be in writing and may be in form prescribed by the commissioner and a certified copy of such contract shall forthwith be transmitted to the department; Engage teacher

18. To suspend or dismiss any teacher for gross misconduct, neglect of duty or for refusal or neglect to obey any lawful order of the board and to forthwith transmit a written statement of the facts to the department; Suspend or dismiss teacher

19. To see that the school is conducted according to the provisions of this Ordinance and the regulations of the department; Conduct of school

20. To provide for the payment of teachers' salaries at least once in every three months; Teachers' salary

21. To make regulations for the management of the school subject to the provisions of this Ordinance and to communicate them in writing to the teacher; Management of school

22. To provide in the case of graded schools when deemed expedient at what times pupils may be admitted to Standard I; Admit Std. I. pupils

Disputes

23. To settle all disputes arising in relation to the school between the parents or children and the teacher;

Suspend or expel pupils

24. To suspend or expel from school any pupil who upon investigation by the board is found to be guilty of truancy, open opposition to authority, habitual neglect of duty, the use of profane or improper language or other conduct injurious to the moral tone or well being of the school;

Truancy

25. To see that the law with reference to compulsory education and truancy is observed;

General

26. To perform such other duties as may be required by this Ordinance or the regulations of the department. 1901, c. 29, s. 95.

Duties of chairman

**96.** It shall be the duty of the chairman of the board:

1. To have the general supervision of the affairs of the district;

2. To certify all accounts against the district passed by the board before such accounts are paid by the treasurer. 1901, c. 29, s. 96.

Duties of secretary

**97.** It shall be the duty of the secretary or secretary treasurer of the board:

Minutes

1. To keep a full and correct record of the proceedings of every meeting of the board in the minute book provided for that purpose and to see that the minutes when confirmed are signed by the chairman;

Correspondence

2. To conduct the correspondence of the board as he may be directed by the board;

Book and papers of district

3. To have charge of and keep on record all the books, papers, accounts, assessment rolls, plans and maps committed to his charge by the board during his term of office and deliver the same to the chairman on ceasing to hold office;

Reports to departments

4. To faithfully prepare and duly transmit to the department such reports and statements and such other information in regard to the district as may from time to time be required by the commissioner and in such form as may be provided by the commissioner;

Call meeting of board

5. To call at the request in writing of the chairman or any trustee a meeting of the board;

Produce books and papers

6. To produce the minute and other books, assessment rolls and all papers and other records of the board for inspection when required by an inspector to do so;

7. To prepare the statement of the trustees to be submitted at the annual meeting of the ratepayers; Prepare statement

8. To give the notice required by this Ordinance of each annual meeting of the ratepayers and to call special meetings of the ratepayers as provided by section 80 of this Ordinance. 1901, c. 29, s. 97. Notices

**98.** It shall be the duty of the treasurer or secretary treasurer of the board: Duties of treasurer

1. To give security to the board before entering upon his duties by a bond signed and acknowledged in duplicate before a commissioner, notary public or justice of the peace and such security shall be given by at least two solvent sureties jointly and severally to the satisfaction of the board or he may furnish in lieu thereof a guarantee bond from any guarantee company authorised to do business in Canada to the amount of any moneys for which the treasurer may at any time be responsible whether arising from the school fund or from any particular contribution or donation paid into his hands for the support or benefit of the district and such security shall be renewed at the beginning of each year or renewed at other times or changed whenever renewal or change is required by the board. The members of any board failing to take such bond or security from its treasurer shall be jointly and severally liable for his default to the extent of the sum for which such bond should have been taken: Treasurer's bonds Renewal of bond Liability of trustees

Provided that when the majority of the board refuse or neglect to take security from the treasurer on the demand of any trustee such demand being duly recorded in the minutes such trustee shall be relieved from all personal liability in case of the default of such officer;

Such bond may be in form prescribed by the commissioner and a duplicate copy thereof shall be forthwith transmitted by the board to the department; Form of bond

2. To receive all school moneys collected from the ratepayers or other persons for the purposes of the district of which he is treasurer and to disburse such moneys in the manner directed by the board; Receive school moneys

3. To pay all accounts against the district only when they are certified by the chairman of the board; Pay accounts

4. To keep in a cash book provided for the purpose a complete and detailed record of all moneys received and disbursed for school purposes including government grants which may have been paid directly to the teacher; Keep cash book

5. To give and take receipts for all school moneys received and paid out and to keep on file all vouchers of expenditure; Receipts

Close books 6. To close and balance the books of the district at the end of the school year which shall be on the 31st day of December in each and every year;

Produce books and vouchers 7. To produce when called for by the trustees, auditor, school inspector or other competent authority, all books, vouchers, papers and moneys belonging to the district and to hand over the same to the trustees or any person named by them upon his ceasing to hold office;

Prepare statement 8. To prepare at the end of each year and in the manner provided by this Ordinance a statement of the finances of the district to be submitted to the annual meeting of the ratepayers;

Reports to department 9. To faithfully prepare and duly transmit to the department such reports and statements with reference to the finances of the district as may from time to time be required by the commissioner and in such form as may be provided by the commissioner. 1901, c. 29, s. 98.

### *Half Yearly and Yearly Returns.*

Returns to department **99.** The board of every district shall cause to be prepared by the proper officers of the district and transmitted to the department the half yearly and yearly returns respecting attendance and classification of pupils and the finances of the district which returns shall be in form prescribed by the commissioner.

Penalty for neglect to forward returns (2) In case the board of any district neglects or refuses to have prepared and transmitted to the department such half yearly and yearly returns within thirty days from the close of the half year or year as the case may be such district shall forfeit the sum of $10 out of any government grant which may have been earned and to which the district is entitled for each week that the returns are delayed and the trustees through whose neglect or refusal such sums have been forfeited shall be jointly and severally responsible for the amount thus lost to the district which amount may be recovered by action in the supreme court of the Territories by any person authorised by the commissioner to bring such action. 1901, c. 29, s. 99.

Liability of trustees

### *Resignation of Trustees.*

Notice of resignation **100.** Any trustee wishing to resign may do so by sending notice in writing to the remaining member or members of the board who shall immediately take the necessary steps to fill the vacancy and such resignation shall only take effect upon the election of a new trustee.

(2) A trustee who resigns his office may be re-elected with his own consent. 1901. c. 29, s. 100.

### *Disqualification of Trustees.*

**Seat vacated by conviction for crime, etc.**

**101.** Any trustee who is convicted of any felony or misdemeanour or becomes insane or absents himself from the meetings of the board for three consecutive months without being authorised by resolution entered upon its minutes or ceases to be an actual resident within the district for which he is a trustee shall *ipso facto* vacate his seat and the remaining trustee or trustees shall declare his seat vacant and forthwith order a new election to fill any vacancy thus created. 1901, c. 29, s. 101.

**Seat vacated by interest in contract with corporation**

**102.** No trustee shall take or possess any pecuniary interest profit or promise or expected benefit in or from any contract agreement or engagement either in his own name or in the name of another with the corporation of which he is a member or shall receive or expect to receive any compensation for any work, engagement, employment or duty on behalf of such corporation except as secretary, treasurer, secretary treasurer or for a school site.

(2) Any trustee violating any of the provisions of this section shall thereby forfeit his seat and the remaining trustees shall declare the seat vacant and it shall thereby become vacant and an election to fill the vacancy so created shall be held forthwith. 1901, c. 29, s. 102.

### *Election to Fill Vacancies.*

**Time of election**

**103.** When any vacancy is created in the board of any village or rural district it shall be the duty of the remaining trustee or trustees in office to forthwith call a special meeting of the ratepayers of the district to elect the required number of trustees to complete the board:

Provided that if any vacancy is not filled within one month the commissioner may appoint some qualified person to fill the same. 1901, c. 29, s. 103.

**Conduct of election—rural and village districts**

**104.** In rural and village districts the election of a trustee to fill any vacancy shall only be held at a special meeting called for the purpose and in the same manner as at the annual meeting except that nominations shall be received by the chairman for thirty minutes from ten o'clock in the forenoon and the poll shall remain open for two hours after nominations close.

**Town districts** (2) In town districts the election of a trustee to fill any vacancy shall be held in the same manner as is provided by this Ordinance for the annual election of trustees in town districts. 1901, c. 29, s. 104.

**Term of office of new trustee** **105.** A trustee elected to fill a vacancy shall hold office only for the unexpired term of the person in whose place he has been elected and he shall within ten days after his election take the declaration of office provided for in section 37 of this Ordinance. 1901, c. 29, s. 105.

## BORROWING POWERS OF DISTRICT.

### *By Note.*

**For current expenses** **106.** The board of any district may by resolution authorise its chairman and treasurer to borrow from any person, bank or corporation such sum of money as may be required to meet the expenditures of the district until such time as the taxes levied for the current year are available and such loan shall be repaid out of and shall be a first charge upon the taxes which are collected for the year in which the loan was made and may be secured by the promissory note or notes of the chairman and treasurer given on behalf of the board. 1901, c. 29, s. 106.

### *By Debenture.*

**For school site, buildings, etc.** **107.** *Should it appear desirable to the board of any district that a sum of money should be borrowed upon the security of the district for securing, purchasing, adding to, extending or improving a school site or sites, or a site for a teacher's house, or for purchasing, repairing, erecting, furnishing or adding to any school building or teacher's house or for all or any of the said purposes it shall pass a bylaw to that effect which may be in form prescribed by the commissioner or to the like effect and which shall be under the corporate seal of the district.*

(2) *A copy of every such bylaw shall be inscribed in the minute book containing a record of the board's proceedings.* 1903, Sess. 2, c. 27, s. 7.

**Notice of intention to borrow** **108.** *Within five days from the passing of the bylaw the board shall give notice of its intention to apply to the commissioner for authority to borrow the amount specified in the bylaw and on the conditions therein set forth.*

(2) *Every such notice shall be in form prescribed by the commissioner and shall be given by notices posted up in at least five widely separated and conspicuous places in the*

*district one of which shall be a post office situated therein and should there be no post office in the district a sixth notice shall be posted in the post office nearest thereto.* 1903, Sess. 2, c. 27, s. 7.

**Demand for poll**

**109.** *Unless the amount to be borrowed under the bylaw does not exceed $800 and is to be borrowed for the purpose of erecting a first school house or for such purpose and other purposes in a district in a town district twenty, in a village district ten and in a rural district four ratepayers of the district may within fifteen days from the date of the posting of notices in the next preceding section mentioned demand a poll of the ratepayers for and against the bylaw and such poll shall be held as hereinafter provided in sections 113 to 121.*

(2) *Every demand for a poll shall be delivered to the secretary of the district or in his absence to the chairman of the board and a certified copy of the demand shall be forthwith transmitted to the department.* 1903, Sess. 2, c. 27, s. 7.

**Authorisation of loan by commissioner when no poll held**

**110.** *In the event of a poll not being required or not being demanded as hereinbefore provided the secretary of the board shall transmit to the commissioner:*

1. *A certified copy of the bylaw;*
2. *A certified copy of the notice provided in section 108 hereof and a statutory declaration proving posting of notices;*
3. *A statutory declaration stating the amount of assessable land in the district if a rural district or the assessed value of the real property in the district as shown by the last revised assessment roll if a town or village district;*

*and upon receipt of the same and upon being satisfied that the several conditions required by this Ordinance have been substantially complied with the commissioner may in writing authorise the board of trustees to borrow the sum or sums of money mentioned in the bylaw or a less sum and shall publish notice of authorisation in the official gazette.* 1903, Sess. 2, c. 27, s. 7.

**Notice of polling**

**111.** *In the event of a poll being demanded as provided by section 109 hereof the board shall by resolution fix the form prescribed by the commissioner or to the like effect of time and place for holding the same and shall give notice in such time and place of polling by notices posted up in at least five widely separated and conspicuous places throughout the* *district at least fourteen clear days before the polling one of which notices shall be posted in the post office situated within the district and should there be no such post office a sixth notice shall be posted in the post office nearest thereto.* 1903, Sess. 2, c. 27, s. 7.

**Copy of bylaw and notice for department**

**112.** A certified copy of the bylaw and of the notice of polling shall be forwarded forthwith to the commissioner by the secretary of the board. 1901, c. 29, s. 112.

**Returning officer and poll clerk**

**113.** The chairman of the board or some person appointed by it shall be returning officer for the poll to be taken and the secretary of the board or some person appointed by the returning officer shall be poll clerk. 1901, c. 29, s. 113.

**Opening poll**

**114.** At the time and place appointed in the notice the returning officer shall declare the poll open and the poll clerk shall record the votes as they are given in a poll book which may be in form F in the schedule to this Ordinance. 1901, c. 29, s. 114.

**Post notice**

**115.** A copy of the notice of polling shall be kept in a conspicuous place where the vote is taken. 1901, c. 29, s. 115.

**Voters**

**116.** Every ratepayer except the returning officer * * * who has paid all taxes due by him to the district shall be entitled to vote on the bylaw. 1901, c. 29, s. 116, and 1903, Sess. 2, c. 27. s. 8.

**Scrutineers**

**117.** The returning officer shall admit any two ratepayers who have respectively voted yea and nay into the polling place to act as scrutineers and on demand allow either or both of them to see any vote recorded in the poll book. 1901, c. 29, s. 117.

**Voter's declaration**

**118.** The returning officer shall if requested by any ratepayer or of his own accord require any person tendering a vote to subscribe to the declaration in form B (*c*) in the schedule to this Ordinance and any person subscribing to such declaration shall be permitted to vote.

(2) Every such declaration shall be subscribed to in the presence of the returning officer and poll clerk who shall subscribe their names as witnesses thereto.

(3) All declarations made under the provisions of the next preceding section shall be retained by the returning officer. 1901, c. 29, s. 118.

**119.** If a person who desires to vote refuses or fails to sign the declaration when required to do so the poll clerk shall write in the column headed "remarks" in the poll book the words "refused declaration" and the person so refusing shall at once leave the polling place and shall not be allowed to enter it again to vote. 1901, c. 29, s. 119.

Record refusal to take declaration

**120.** Any person subscribing to a declaration form B (*c*) containing any false statement shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $10. 1901, c. 29, s. 120.

Penalty—false declaration

**121.** At the time appointed in the notice of voting the returning officer shall close the poll, sum up the votes and declare the result.

Closing poll

(2) In the case of a tie the returning officer shall give a casting vote. 1901, c. 29, s. 121.

**122.** Should any ratepayer of the district make a complaint in writing to the returning officer within three days next after the taking of the poll with regard to the manner in which the poll was conducted, the right of any person to vote or the result of the voting the returning officer shall forthwith notify such ratepayer in writing of the time and place within seven days of the day of voting when he shall appear before a justice of the peace for a final recount of votes and when all complaints which may have been made shall be heard. 1901, c. 29, s. 122.

Complaints re conduct of poll

**123.** In case no such complaint is duly lodged with the returning officer he shall at the expiration of three days after the taking of the poll forthwith forward to the commissioner a certified copy of the poll book showing the total number of votes cast for and against the bylaw and he shall make an affidavit which shall be inscribed thereon that the poll was conducted throughout in the manner provided by this Ordinance or with such exception as he shall mention that the returns contained therein are correct and that no complaints as provided for by the next preceding section were received by him. 1901, c. 29, s. 123.

Returning officer's returns to commissioner

**124.** In the event of any complaint being made as aforesaid the returning officer shall appear before a justice of the peace at the time and place appointed and he shall deliver to the justice of the peace the poll book used by him at the poll and shall make an affidavit before the justice of the peace which shall be written in or upon such book that the election has been conducted throughout in the manner provided by this Ordinance or with such exceptions as he shall mention and that the returns contained therein are correct.

Proceedings before justice of peace

(2) The justice of the peace shall then receive and record in writing any complaint that may be made under oath by any person relative to the conduct of the voting and shall examine into and decide such complaints by taking evidence under oath. 1901, c. 29, s. 124.

Security for costs

**125.** Before proceeding to the hearing of any complaint the justice of the peace shall require the complainant to deposit with him such sum not being less than $25 nor more than $100 as may seem necessary to him to cover the costs of the hearing of the complaint which costs shall be paid according to the decision of such justice of the peace. 1901, c. 29, s. 125.

Proceedings essentially irregular

**126.** If it be found that the proceedings in taking the vote have been irregular in any essential particulars and that injustice has thereby been done the poll shall be declared null and void and of no effect and the justice shall forthwith forward to the department a full report to that effect.

Corrupt practices

(2) If it be found that any vote has been cast by any person not duly qualified to vote or on account of bribery or intimidation it shall be struck off the poll book. 1901, c. 29, s. 126.

Return by justice of peace to department

**127.** When all complaints have been heard and decided upon and the corresponding alterations duly made in the poll book the justice of the peace shall finally sum up the votes cast and shall forward to the department a return in form G in the schedule hereto or to the like effect showing the total number of votes taken and the number remaining on each side after the recount. 1901, c. 29, s. 127.

Approval of commissioner

**128.** Upon receipt of the return mentioned in section 123 or section 127 hereof and upon being satisfied that the several conditions required by this Ordinance have been complied with the commissioner may in writing authorise the board of trustees to borrow the sum or sums of money mentioned in the bylaw and shall publish notice of authorisation in the official gazette. The board may thereupon issue a debenture or debentures to secure the amount of the principal and interest of the loan so authorised or of any less sum upon the terms specified in the bylaw and the debenture or debentures and the coupons thereto shall when signed by the chairman and treasurer of the district be sufficient to bind the district and create a charge or lien against all school property or rates in the district.

(2) The total face value of the debentures issued by any village or town district shall not be for a greater sum than one-tenth of the total assessed value of the real property within such district as shown by the last revised assessment roll of the district nor by any rural district for a greater sum than twenty-five cents per acre for each acre assessed as shown by the last revised assessment roll of the district *or in case there has been no revised assessment roll for each acre assessable as shown by the statutory declaration required by paragraph 3 of section 110.* **Limit of debentures**

(3) Debentures shall not run for a longer term than twenty years if the school buildings are of brick, brick veneer, concrete or stone nor for a longer period than ten years if the buildings are frame or log: **Term of debenture**

*Provided that in the event of the first instalment of principal and interest of any debenture being made payable at any time after one year from the date of the debenture as provided by section 10 of chapter 27 of the Ordinances of 1903 (second session) such debenture may run for such longer term than ten, twenty or thirty years as the case may be as may be necessary to allow of repayment in ten, twenty or thirty years as the case may be from the date of the payment of the first instalment of principal and interest:* **Provisos**

*Provided further that in the case of town districts the debentures thereof may be made to run for a term not exceeding thirty years if the school buildings are of solid brick, concrete or stone.*

(4) Debentures shall not carry interest at a greater rate than eight per centum per annum. **Interest**

(5) *Debentures may be dated at any time within twelve months from the date on which notice of the authorisation of the loan appears in the official gazette and the first instalment of principal and interest may be made payable at any time within eighteen months of the date of the debenture and the debenture shall be in the following form or to the like effect:* **Date and form of debenture**

*$ Debenture No.*

*School District No. of the North-West Territories.*

*The Board of Trustees* (or *official trustee* as the case may be) *of School District No. of the North-West Territories promise to pay the bearer at the at the sum of dollars of lawful money of Canada in equal consecutive annual instalments with interest at the rate* *of per cent. per annum on the terms and in the amounts specified in the coupons attached hereto.*

*Dated this day of 19 .*

*A.B.,*
*Chairman.*
*C D.,*
*Treasurer* (or *Official Trustee.*)

**COUPONS.**

*Coupon No.*
*Debenture No.*

*The Board of Trustees of School District No. of the North-West Territories* (or *official trustee* as the case may be) *will pay to the bearer at the at on the day of 19 the sum of dollars being the instalment of principal with the total interest at the rate of per cent. per annum due on that day on School Debenture No.*

*A.B.,*
*Chairman.*
*C.D.,*
*Treasurer* (or *Official Trustee.*)

1901, c. 29, s. 128; 1903, Sess. 2, c. 27, ss. 9 and 10, and 1904, c. 9, s. 1.

Registration

**129.** Every debenture before being issued shall be sent for registration to the commissioner who shall cause a proper record to be kept of the same. 1901, c. 29, s. 129.

Commissioner shall countersign

**130.** The commissioner shall thereupon if satisfied that the requirements of this Ordinance have been substantially complied with and if the authority to make the loan has not been withdrawn register and countersign the debenture and such countersigning by the commissioner shall be conclusive evidence that the district has been legally constituted and that all the formalities in respect to such loan and the issue of such debenture have been complied with and the legality of the issue of such debenture shall be thereby conclusively established and its validity shall not be questionable by any court in the Territories but the same shall to the extent of the revenues of the district issuing the same be a good and indefeasible security in the hands of any *bona fide* holder thereof. 1901, c. 29, s. 130.

## CONDUCT OF SCHOOLS.

### *Fees.*

**131.** No fees shall be charged by the board of any district on account of the attendance at its school of any child whose parent or lawful guardian is a *taxpayer* of the district: Free school

Provided that if the board of any district maintains one or more departments in its school exclusively for pupils above standard V as it may be defined from time to time by the regulations of the department it may charge the parent or lawful guardian of any pupil in attendance at any such department a fee not exceeding nine dollars for the first term and six dollars for the second term in any year if such parent or lawful guardian is a resident *taxpayer* of the district and in case such parent or lawful guardian is not a resident *taxpayer* of the district a fee not exceeding thirteen dollars for the first term and eight dollars for the second term and all such fees shall be payable at such times and in such amounts as may be determined by the board. 1901. c. 29, s. 131 and 1903, Sess. 2, c. 27, s. 11. Fees for pupils above Standard V.

### *School Terms.*

**132.** The school year shall begin on the first day of January and end on the thirty-first day of December and shall be divided into two terms ending the thirtieth day of June and the thirty-first day of December respectively. 1901, c. 29, s. 132. Two terms

### *Hours.*

**133.** School shall be held between nine o'clock and twelve o'clock in the forenoon and half-past one o'clock and four o'clock in the afternoon of every day standard time not including Saturdays, Sundays or holidays but the board may alter or shorten the school hours upon receiving the permission of the commissioner. School hours and recess

(2) A recess of fifteen minutes in the forenoon and in the afternoon shall be allowed the children attending school. 1901, c. 29, s. 133.

### *Vacation and Holidays.*

**134.** In any school open during the whole year there shall be seven weeks' holidays of which not less than two nor more than six shall be given in summer and not less than one nor more than five in winter to be apportioned at the discretion of the board. The summer holidays shall fall between the second day of July and the thirty-first day of August and the winter holidays shall commence on the twenty-fourth day of December in all schools. Summer and winter vacations

(2) The board of any district in which the school is open during the whole year may allow two weeks' additional holidays.

(3) When a school is open only during a portion of the year the board may give holidays not to exceed two weeks beginning on the second day of July:

Provided that the commissioner may on proper representation being made to him allow the board to give holidays not exceeding two weeks at some other time. 1901, c. 29, s. 134.

**Holidays**

**135.** Ash Wednesday, Good Friday, Easter Monday, Arbour day (second Friday in May), the birthday of the reigning sovereign, Victoria day, Dominion day, Labour day, Thanksgiving day, Christmas day, New Year's day and any day specially appointed as a holiday by the Governor General, the Lieutenant Governor of the Territories, the mayor of a city or town or the reeve of a rural municipality shall be holidays; and it shall be at the discretion of the board to permit any other holidays not exceeding one day at a time. 1901, c. 29, s. 135.

*Language to be Used.*

**English language compulsory**

**136.** All schools shall be taught in the English language but it shall be permissible for the board of any district to cause a primary course to be taught in the French language.

**Other languages may be taught**

(2) The board of any district may subject to the regulations of the department employ one or more competent persons to give instruction in any language other than English in the school of the district to all pupils whose parents or guardians have signified a willingness that they should receive the same but such course of instruction shall not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the department and this Ordinance.

**Special rate for the purpose**

(3) The board shall have power to raise such sums of money as may be necessary to pay the salaries of such instructors and all costs, charges and expenses of such course of instruction shall be collected by the board by a special rate to be imposed upon the parents or guardians of such pupils as take advantage of the same. 1901, c. 29, s. 136.

*Religious Instruction.*

**Religious instruction**

**137.** No religious instruction except as hereinafter provided shall be permitted in the school of any district from the opening of such school until one half hour previous to its closing in the afternoon after which time any such instruction permitted or desired by the board may be given.

(2) It shall however be permissible for the board of any district to direct that the school be opened by the recitation of the Lord's prayer. 1901, c. 29, s. 137.

Time for the Lord's prayer

**138.** Any child shall have the privilege of leaving the school room at the time at which religious instruction is commenced as provided for in the next preceding section or of remaining without taking part in any religious instruction that may be given if the parents or guardians so desire. 1901, c. 29, s. 138.

Attendance not compulsory during religious exercise

**139.** No teacher, school trustee or inspector shall in any way attempt to deprive such child of any advantage that it might derive from the ordinary education given in such school and any such action on the part of any school trustee, inspector or teacher shall be held to be a disqualification for and voidance of the office held by him. 1901, c. 29, s. 139.

No pupil to be deprived of ordinary education

### *Kindergarten Classes.*

**140.** Kindergarten classes may be established in any school for the teaching and training of children between the ages of four and six years according to kindergarten methods and in such school a fee may be charged not exceeding $1 per month for each pupil to cover cost of maintaining such department. 1901, c. 29, s. 140.

Ages and fees

### *Night Classes.*

**141.** The board of any district may engage a qualified teacher and make necessary arrangements at the expense of the district for the maintenance of a night school:

How maintained

Provided that if the school is kept open for one month a fee may be charged of not more than $2 per month for each month or portion of month that the pupil is in attendance. 1901, c. 29, s. 141.

Fees

### COMPULSORY EDUCATION.

**142.** In every district where there are at least fifteen children between the ages of seven and fourteen inclusive resident within a radius of one mile and a half from the school house it shall be compulsory for the board of such district to keep the school open the whole year. 1901, c. 29, s. 142.

Schools to be open all year

**143.** In every district where there are at least ten children between the ages of seven years and fourteen years inclusive it shall be compulsory for the board of such district to keep the school in operation at least six months in every year. 1901, c. 29, s. 143.

Schools to be open six months

Compulsory attendance

**144.** Every parent, guardian or other person resident in a school district having charge of any child or children between the ages of seven and twelve inclusive shall be required to send such child or children to school for a period of at least sixteen weeks in each year at least eight weeks of which time shall be consecutive; and every parent, guardian or other person who does not provide that every such child under his care shall attend school or be otherwise educated shall be subject to the penalties hereinafter provided. 1901, c. 29, s. 144.

Trustees to lay complaints for non-attendance

**145.** It shall be the duty of the board of every district or any person authorised by it after being notified that any parent, guardian or other person having control of any child or children neglects or violates the provisions of the next preceding section to make complaint of such neglect or violation to a justice of the peace and the person complained against shall on summary conviction be liable to a fine not exceeding $1 for the first offence and double that penalty for each subsequent offence. 1901, c. 29, s. 145.

Justice to investigate cause of non-attendance

**146.** It shall be the duty of the justice of the peace to ascertain as far as may be the circumstances of any party complained of for not sending his child or children to school or otherwise educating him or them and he shall accept any of the following as a reasonable excuse:

Excuses to be accepted

1. That the child is under instruction in some other satisfactory manner;

2. That the child has been prevented from attending school by sickness or any unavoidable cause;

3. That there is no school open which the child can attend within such distance not exceeding two and one-half miles measured according to the nearest passable road from the residence of such child;

4. That such child has reached a standard of education of the same or of a greater degree than that to be obtained in the school of the district within which such child resides;

5. That such parent or guardian was not able by reason of poverty to clothe such child properly or that such child's bodily or mental condition has been such as to prevent his or her attendance at school or application to study for the period required. 1901, c. 29, s. 146.

## *Truancy.*

Traunt officer

**147.** The board of any district may appoint a truant officer who shall for the purposes of this Ordinance be vested with

Regulations

police powers and it shall have authority to make regulations for the direction of such officer in the enforcement of the provisions of this Ordinance as it may deem expedient provided such regulations are not inconsistent with any of the provisions of this Ordinance and have been approved by the commissioner. 1901, c. 29, s. 147.

Truant officer to lay complaint

**148.** If the parent, guardian or other person having the legal charge of any child shall neglect or refuse to cause such child to attend some school within five days after being notified as herein required unless excused from such attendance as provided in this Ordinance the truant officer shall make or cause to be made a complaint against such person before a justice of the peace and such person shall be liable on summary conviction to a fine not exceeding $1 and costs for the first offence and double that penalty for each subsequent offence:

Provided that in other than town districts the provisions of the foregoing clauses relating to truancy shall not apply to children who may reside more than one mile from the school house. 1901, c. 29, s. 148.

### TEACHER.

#### *Qualification.*

Trustees to engage qualified teacher

**149.** No person shall be engaged, appointed, employed or retained as teacher in any school unless he holds a valid certificate of qualification issued under the regulations of the department. 1901, c. 29, s. 149.

#### *Engagement and Dismissal.*

Teacher must be engaged at board meeting

**150.** A teacher shall not be engaged except under the authority of a resolution of the board passed at a regular or special meeting of the board. 1901, c. 29, s. 150.

Form of contract

**151.** The contract entered into shall be in the form prescribed by the commissioner and such form may be altered or amended as may be mutually agreed upon by the contracting parties provided such alterations or amendments are not inconsistent with any of the provisions of this Ordinance or the regulations of the department. 1901, c. 29, s. 151.

Parties signed by

**152.** The contract shall be deemed valid and binding if signed by the teacher and by the chairman on behalf of the board. 1901, c. 29, s. 152.

Dismissed teacher may appeal

**153.** Any teacher who has been suspended or dismissed by the board may appeal to the commissioner who shall have power to take evidence and confirm or reverse the decision of the board and in the case of reversal he may order the reinstatement of such teacher:

Provided that in case there is no appeal to the commissioner or in the event of an appeal if the decision of the board is sustained the teacher shall not be entitled to salary from and after the date of such suspension or dismissal. 1901, c. 29, s. 153.

### *Payment of Teachers.*

Every three months

**154.** Every teacher shall be paid the amount of salary due to him at least once in every three months and it shall be the duty of the board to make due provision for such payment. 1901, c. 29, s. 154.

How to estimate teacher's salary

**155.** The salary of a teacher who has been engaged in any district for four months or more continuously shall be estimated by dividing the rate of salary for the year by 210 and multiplying the result obtained by the number of actual teaching days within the period of his engagement:

Provided that if a teacher has taught more than 210 days in any calendar year he shall only be entitled to a year's salary. 1901, c. 29, s. 155.

Salary in case of sickness

**156.** Every teacher in case of sickness certified by a qualified medical practitioner shall be entitled to his salary during such sickness for a period not to exceed four weeks for the entire year which period may be increased by the board. 1901, c. 29, s. 156.

Payment of salary

**157.** A teacher whose agreement with a board has expired or who is dismissed by them shall be entitled to receive forthwith all moneys due him for his services as teacher while employed by said board; if such payment be not made by the board or tendered to the said teacher he shall be entitled to recover the full amount of his salary due and unpaid with interest in any court of competent jurisdiction. 1901, c. 29, s. 157.

### *Duties of Teacher.*

**158.** It shall be the duty of every teacher:

Teaching

1. To teach diligently and faithfully all the subjects required to be taught by the regulations of the department;

2. To maintain proper order and discipline and to conduct and manage the school according to the regulations of the department; Discipline

3. To keep in a conspicuous place in the school room a time table which shall show the classification of pupils, the subjects taught each day in the week, the length of each recitation period and the seat work given; and to submit such time table to the inspector for his approval and signature on the occasion of his visit to the school; Time table

4. To keep in the prescribed form the school registers and to give access to them to trustees, officers of the board, inspectors and any other person authorised thereto by the commissioner; Register

5. To make at the end of each term or at any other time such promotions from one class or standard to another as he may deem expedient subject to the ratification of the inspector at his next visit; Promotions

6. To hold during each year a public examination of his school of which he shall give due notice to the board and through the pupils to their parents or guardians; Public examinations

7. To send monthly to the parents or guardian of each pupil if required by the board a report of the pupil's attendance, conduct and progress; Monthly reports

8. To encourage the observance of Arbour day by holding suitable exercises, to take an interest in the cleanliness and tidiness of the school grounds and to secure the co-operation of trustees and parents in planting trees and shrubs about the school; Arbour day

9. To give strict attention to the proper heating, ventilation and cleanliness of the school house and to the condition of the outhouses in connection with the same and to report to the board any defect with respect thereto; Sanitary condition of school room

10. To exercise vigilance over the school property, the buildings, fences, furniture and apparatus so that they may not receive unnecessary injury and to give prompt notice in writing to the board of any such injury; Care of property

11. To report to the secretary of the board any necessary repairs to the school buildings or furniture and any required supply of fuel, drinking water, furniture or equipment; Needed repairs

12. To see that the provisions of clause 10 of section 95 of this Ordinance have been complied with and if not to report to the board and in case of any neglect on the part of the board to notify the commissioner; Privies

Contagious diseases

13. To notify the chairman of the board whenever he has reason to believe that any pupil attending school is affected with or exposed to small pox, cholera, scarlatina, diphtheria, whooping cough, measles, mumps or other infectious or contagious disease and to prevent the attendance of any pupil so affected or exposed or suspected of being affected or exposed until furnished with the written statement of a physician or the chairman of the board that such contagious or infectious disease does not exist or that all danger from exposure to any of them has passed away;

Suspend pupils

14. To suspend from school any pupil for violent opposition to authority and to forthwith report in writing the facts of such suspension to the board which may take such action with regard thereto as it may deem necessary;

Returns to department

15. To assist the board and its officers in making the prescribed returns to the department;

Give information re school

16. To furnish to the commissioner, the inspector of schools, the board or any person appointed by the commissioner any information which it may be in his power to give respecting anything connected with the operation of the school or in anywise affecting its interests or character;

Give up property

17. To deliver up any school registers, school house key or other property of the district in his possession when required to do so by a written order of the board;

Attend meetings

18. To attend all meetings of the teachers called by the principal where more than one teacher is employed. 1901, c. 29, s. 158.

## *Duties of Principal.*

Principal and assistants

**159.** In every school in which more teachers than one are employed the head teacher shall be called the principal and the other teachers assistants. 1901, c. 29, s. 159.

**160.** The principal shall prescribe with the concurrence of the board the duties of the assistants and shall be responsible for the organisation and general discipline of the whole school. 1901, c. 29, s. 160.

## *Teachers' Associations.*

Meetings subject to regulations

**161.** Any number of teachers may organise themselves into an association and subject to the regulations of the department may hold conventions and institutes for the purpose of receiving instruction in and discussing educational matters. 1901, c. 29, s. 161.

### EDUCATION OF NONRESIDENT CHILDREN.

Application for education of nonresident children

**162.** The parent or lawful guardian of any child residing outside the limits of any district may apply to the board for the admission of such child to its school and it shall be the duty of the board to admit such child:

Inspector's statement required

Provided always that the board may demand that the application for the admission of any nonresident child be accompanied by a statement from the inspector of the district to the effect that the accommodation of the school is sufficient for the admission of such child:

Fees

Provided further that the board may demand from such parent or guardian the payment of school fees at a rate not exceeding four cents per day per family which fees shall be payable monthly in advance and shall be calculated according to the number of actual teaching days in each month. 1901, c. 29, s. 162.

Resident children

**163.** The parent or lawful guardian of any child residing within the limits of any district and who is not a *taxpayer* thereof may send his children to the school operated within the district subject to the second proviso of the next preceding section. 1901, c. 29, s. 163, and 1903, Sess. 2, c. 27, s. 11.

Application of nonresident to have property assessed

**164.** Any person not living within a district may apply to the board of any district to have his or her property if not already included in any other district assessed in such district to secure the advantages of education for his children and in any such case on the report of an inspector that the accommodation of the school room is sufficient for the admission of the children of such person the board shall receive such application and place the said property on the assessment roll of the district and such property shall remain liable to assessment in such district until a new district is established including the said property; and for the purose of enforcing payment of taxes and of all remedies therefor the said property shall be deemed to be within the school district on whose assessment roll it is placed. 1901, c. 29, s. 164.

### CONVEYANCE OF SCHOOL CHILDREN.

#### *From One District to Another.*

Agreement boards for education of children of another district

**165.** Upon a petition hereinafter provided for being transmitted to the commissioner he may empower the board of any rural district to enter into an agreement with any other board or boards for the education of the children of its district upon such terms as may be mutually agreed upon and approved by him and the board entering into any such agreement shall have full power and authority to make the necessary levy and assessment for the purpose of carrying out the terms of the agreement and for providing for the conveyance of children to and from school under the provisions of *The School Assessment Ordinance*:

Provided that any such agreement may be terminated by any board a party thereto by giving notice on or before the first day of October in any year and upon such notice being given the agreement shall cease and determine on the last day of the month of December following.

(2) The petition for permission to enter into such an agreement may be in form prescribed by the commissioner and shall be signed by at least two-thirds of such resident ratepayers of the district as are the parents or guardians of children between the ages of five and sixteen years inclusive.

(3) The statements contained in the petition shall be verified by the affidavit of two of the subscribing petitioners and the signatures of the ratepayers signing the petition shall be verified by the affidavit of a subscribing witness thereto. 1901, c. 29, s. 165.

**Regulations for conveyance**

**166.** The commissioner may subject to the approval of the Lieutenant Governor in Council make such regulations as are deemed necessary and expedient for the proper conveyance of the children as hereinbefore provided and for the keeping of proper records of the number of children conveyed, the distance travelled, the cost of conveyance and such other information as may be desired. 1901, c. 29, s. 166.

### *Within the School District.*

**Cost of**

**167.** The board of any district may make due provision subject to the regulations of the department in that behalf for the proper conveyance of the school children resident within the district to and from school and it shall have power to provide for the cost of such conveyance in the same manner as is provided for the other expenditures of the district.

(2) The secretary of every district in which provision is made as aforesaid shall forthwith notify the commissioner. 1901, c. 29, s. 167.

## PENALTIES AND PROHIBITIONS.

**Fulfilment of contracts**

**168.** Any board or any member thereof that wilfully neglects or refuses to exercise or to assist in exercising all the corporate powers vested in such board by this Ordinance for the fulfilment of any contract or agreement made by it shall be personally responsible for the fulfilment of such contract or agreement. 1901, c. 29, s. 168.

**Liability of trustees Unauthorised contracts**

**169.** Should the board of any district wilfully contract liabilities in the name of the district greater or other than as provided or allowed by this Ordinance or appropriate any of the moneys of the district for purposes other than are provided or allowed by this Ordinance the treasurer of the district or some other person authorised by the commissioner may recover as a debt in a court of competent jurisdiction from such board jointly or severally the sum or sums for which the district has been rendered liable through the action of such trustees over and above the amount so provided by this Ordinance in addition to the total amount of any moneys that have been misappropriated by such trustees. 1901, c. 29, s. 169.

**False report or register**

**170.** If any trustee knowingly signs a false report or if any teacher keeps a false school register or knowingly makes a false return he shall be guilty of an offence and liable on summary conviction to a fine not exceeding $20. 1901, c. 29, s. 170.

**Wrongful detention of property of district**

**Penalty**

**171.** Any trustee, officer or employee of a district who after ceasing to hold office detains any money, book, paper or thing belonging to the district shall thereby incur a penalty not exceeding $20 for each day during which he wrongfully retains possession of such money, book, paper or thing after having received notice in writing from the chairman of the board or from the commissioner requiring him to deposit the same in the hands of some person mentioned in such notice.

**Neglect of duty by officer**

(2) *Any trustee, officer or employee of a district who refuses, neglects or fails to perform any duty imposed on him by this Ordinance shall be liable to a penalty not exceeding $50.* 1901, c. 29, s. 171 and 1903, Sess. 2, c. 27, s. 12.

**Misconduct of returning officer**

**172.** Any returning officer of any district or proposed district acting under the provisions of this Ordinance who shall knowingly and wilfully prejudice the result of any voting by preventing votes from being taken or by taking unlawful votes or by altering returns or books in any way or by any other means shall be liable to a penalty of not less than $10 and not exceeding $100. 1901, c. 29, s. 172.

**Penalty for disturbing school or meetings**

**173.** Any person who wilfully disturbs, interrupts or disquiets the proceedings of any school meeting authorised to be held by this Ordinance or any one who wilfully interrupts or disquiets any school established and conducted under its authority by rude or indecent behaviour or by making a noise either within the place where such school is kept or held or so near thereto as to disturb the order of exercises of the school shall be guilty of an offence for which he shall forfeit for the use of the district within which the offence was committed a sum not exceeding $20. 1901, c. 29, s. 173.

Trustee cannot be teacher

**174.** No school trustee shall be eligible to appointment as teacher within the district of which he is a trustee; nor shall the teacher of any school hold the office of school trustee. 1901, c. 29, s. 174.

Recovery of fines

**175.** All fines, penalties and forfeitures mentioned in this Ordinance may be recovered and enforced with costs on summary conviction before a justiçe of the peace. 1901, c. 29, s. 175.

Application of royalties

**176.** All moneys accruing from fines or penalties under this Ordinance shall unless otherwise provided belong to the general revenue fund of the Territories. 1901, c. 29, s. 176.

## MISCELLANEOUS.

Town district may be declared village district

**177.** The Lieutenant Governor in Council may by order notice of which shall be published in the official gazette declare that for the purposes of this Ordinance any town district shall be deemed to be a village district and thereafter all the provisions of this Ordinance relating to village districts shall apply thereto. 1901, c. 29, s. 177.

Confirmation of existing districts, etç.

**178.** All school districts heretofore erected or purporting so to be are hereby confirmed as districts legally established under this Ordinance with any alterations of boundaries made or purporting to have been made and all debentures issued by the trustees or commissioners of any such school districts are hereby confirmed and declared to be legal and valid charges upon the property of the districts issuing the same notwithstanding any defect or irregularity in any proceeding in respect of or preliminary to the erection of such districts or alterations of the boundaries thereof or the issuing of such debentures. 1901, c. 29, s. 178.

Repeal

**179.** *The School Ordinance* being chapter 75 of *The Consolidated Ordinances 1898* and chapter 26 of the Ordinances of 1900 amending the same are hereby repealed:

Provided however that sections 116 to 196 and 212 to 214 all inclusive shall continue in force until the first day of January, 1902. 1901, c. 29, s. 179.

**180.** This Ordinance shall come into force on the first day of September, 1901. 1901, c. 29, s. 180.

## SCHEDULE.

### FORM A.

Proposed                    School District of the N.W.T.
(Proposed name of district)

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named proposed school district and that he has so resided therein and owned or been the occupant of assessable property therein for a period of at least two months immediately prior to this date.

| Names. | Property owned or occupied. |
|---|---|
| | |

Witnesses to the above signatures:

.....................
*Chairman.*
.....................
*Secretary.*

Dated the          day of          190 .

1901, c. 29.

### FORM B.

#### (*a*)

(*This form should be used for resident ratepayers in any established district not having a revised assessment roll.*)

The                    S.D. No.          of the N.W.T.

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named district and that he has owned or been the occupant of assessable property therein for a period of at least two months prior to this date.

| Names. | Property owned or occupied. |
|---|---|
| | |

Witnesses to the above signatures:

....................
*Chairman.*

....................
*Secretary.*

Dated the day of 190 .

(*b*)

(*This form should be used for resident ratepayers in any district that has a revised assessment roll.*)

The S.D. No. of the N.W.T.

The undersigned severally declare each for himself that he is of the full age of twenty-one years, that he actually resides within the above named district, that his name appears on the last revised assessment roll of the district and that he has paid all taxes due by him thereto.

| Names. | Property owned or occupied. |
|---|---|
| | |

Witnesses to the above signatures:

....................
*Chairman.*

....................
*Secretary.*

Dated the day of 190

### (c)

(*This form should be used for ratepayers of any established district.*)

The S.D. No. of the N.W.T.

The undersigned severally declare each for himself that he is of the full age of twenty-one years, * * * and that he has paid all taxes due by him thereto.

| Names. | Property owned or occupied. |
|---|---|
| | |

Witnesses to the above signatures:

.......................
*Chairman.*

.......................
*Secretary.*

Dated the day of 190 .

1901, c. 29 and 1903, Sess. 2, c. 27, s. 13.

## FORM C.

### Poll Book.

Election of Trustees for the S.D. No. of the N.W.T.
Date of Poll ; Poll opened ; Poll closed ;

| Name of voter. | Person voted or. | Remarks. |
|---|---|---|
| | | |

.......................
*Chairman.*

## FORM D.

[*Repealed by section 14 of 1903, Sess. 2, c. 27.*]

## FORM E.

[*Repealed by section 14 of 1903, Sess. 2, c. 27.*]

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## FORM F.

### Poll Book.

Vote on debenture bylaw submitted to the ratepayers of S.D. on the day of 190

Poll opened at ten o'clock a.m. Poll closed at four o'clock p.m.

| Name of voter. | Record of votes. | | Remarks. |
|---|---|---|---|
| | For bylaw. | Against bylaw. | |
| | | | |
| Totals | | | |

.....................

*Returning Officer.*

1901, c. 29.

## FORM G.

I, the undersigned justice of the peace in and for the North-West Territories having received the poll book used to record the votes taken at the meeting held in the (*give name of school district in full*) on the day of 190 on the question of the issue of debentures on the security of the said district and having heard all complaints relative to the conduct of the voting beg leave to submit the following return of the votes.

| Total No. of votes taken. | | No. of votes on each side after the recount. | |
|---|---|---|---|
| For | Against | For | Against |
| | | | |

.....................

*J.P.*

Dated at this day of 190 .

1901, c. 29.

# SCHOOLS.

### AMENDMENT.

## An Ordinance to amend Chapter 29 of the Ordinances of 1901, intituled "An Ordinance respecting Schools."

1903, sess. 2, c. 27
21 Nov., 1903

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** to **14.** * * * * * * * * * * * * *

Order not to be invalidated for irregularity

**15.** No order purporting to be made under the said Ordinance and being within the powers conferred by the said Ordinance shall be deemed invalid on account of any noncompliance with any of the matters required by the said Ordinance as preliminary to such order, And no misnomer, inaccurate description or omission in any such order shall in anywise suspend or impair the operation of the Ordinance with respect to the matter so misdescribed or omitted.

Correction of error in order, etc.

**16.** Any misdescription or other error in any order made by the commissioner or in any order made or proclamation issued by the Lieutenant Governor in Council under the provisions of the said Ordinance or under the provisions of any other Ordinance respecting schools at any time in force in the Territories may be corrected and confirmed with such correction as of the date on which it was made or issued by the commissioner by any subsequent order.

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# SCHOOL ASSESSMENT.

| | |
|---|---|
| *Principal Ordinance .... .... ....* | *1901, c. 30* |
| *Amending Ordinance .... .... ...* | *1903, Sess. 1, c. 21* |

1901, c. 30
12 June, 1901

## An Ordinance respecting Assessment and Taxation in School Districts.

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as "*The School Assessment Ordinance.*" 1901, c. 30, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

1. All words, names and expressions except the expression "commissioner" shall have the same meaning as is expressly or impliedly attached to them by *The School Ordinance;*

2. The expressions "secretary" and "treasurer" shall include "secretary treasurer";

3. The expressions "board," "assessor," "secretary" and "treasurer" shall include an official trustee appointed under the provisions of *The School Ordinance;*

4. The expression "commissioner" shall mean the commissioner of public works of the Territories. 1901, c. 30, s. 2.

### ASSESSOR.

Assessor

**3.** The assessment in any village or rural district may be made by the board or any person appointed by it as assessor for the district.

Trustee may be assessor

(2) Any member of the board may be appointed assessor.

Interpretation

(3) The expression "assessor" in any part of this Ordinance relating to village or rural districts shall mean the board or the assessor accordingly as the assessment is made by the board or an assessor. 1901, c. 30, s. 3.

### ASSESSMENT IN RURAL DISTRICTS.

Application of sections 4 to 24

**4.** The following sections numbers 5 to 24 inclusive shall apply to rural districts only.

Exemptions

**5.** In any rural district the property exempt from assessment and taxation shall be:

1. All land held by or in trust for the use of any tribe of Indians;

2. The land of the district and the land to the extent of two acres of any other district used for school purposes;

3. The land to the extent of one acre held by or for the use of any church and occupied by a building used for church purposes;

4. The land in use as a public cemetery not exceeding twenty-five acres;

5. The land used as the right of way for any irrigation canal or ditch. 1901, c. 30, s. 5.

Assessment roll

**6.** As soon as may be in each year the assessor of the district shall assess every person the owner or occupant of land in the district and shall prepare an assessment roll in which shall be set out as accurately as may be:

(*a*) Each lot or parcel of land owned or occupied in the district and the number of acres it contains;

(*b*) The name of either the owner or occupant or both. 1901, c. 30, s. 6.

Assessment when owner unknown

**7.** If the assessor does not know and cannot after reasonable inquiry ascertain the name of the owner of any unoccupied lot or parcel of land in the district the same shall be deemed to be duly assessed if entered on the roll with a note stating that such owner is unknown. 1901, c. 30, s. 7.

Separate school district, assessment of joint owners

**8.** In cases where separate school districts have been established whenever land is held by two or more persons as joint tenants or tenants in common the holders of such property being protestants and roman catholics they shall be assessed in proportion to their interest in the land in the district to which they respectively are ratepayers. 1901, c. 30, s. 8.

Separate school district company may be assessed as supporter

**9.** A company may by notice in that behalf to be given to the secretary of the board of any district in which a separate school has been established and to the secretary of the board of such separate school district require any part of the land of which such company is the owner to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school ratepayer in the assessment roll in respect of the land specially designated in that behalf in or by said notice and so much of the land as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not public school purposes but all other land of the company shall be separately entered and assessed in the name of the company as for public school purposes:

Proviso as to proportion of shares held in district

Provided always that the share or portion of the land of any company entered, rated or assessed in any district for separate school purposes under the provisions of this section shall bear the same ratio and proportion to the whole land of the company assessable within the district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up held and possessed by persons who are protestants or roman catholics as the case may be bears to the whole amount of such paid or partly paid up shares or stock of the company.

Notice to be continuing

(2) Any such notice given in pursuance of a resolution in that behalf of the directors of the company shall for all purposes be deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors.

Notice open to inspection

(3) Every such notice so given to such secretary shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll each year.

Fraudulent notices

(4) False statements made in any such notice shall not relieve the company from rates but any company fraudulently giving such notice or making false statements therein shall be liable to a penalty not exceeding $100 and any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to the like penalty. 1901, c. 30, s. 9.

Penalty

Assessment roll

**10.** Upon the completion of the assessment roll the assessor shall deliver the same to the secretary of the board.

Notice to persons assessed

(2) The secretary shall mail to each person assessed whose address is known to him, a notice of his assessment; and the entry of the date of the mailing of each such notice together with the initials of the secretary on the assessment roll shall be *prima facie* evidence of the mailing of such notice on the date entered without proof of the appointment or signature of the secretary and the absence of such date and initials shall be *prima facie* evidence that the person's address is unknown.

Copy of roll to be posted

(3) After all the notices have been mailed the secretary shall post a copy of the roll at the school house or if there be no school house in the district in some conspicuous place outside his residence and shall keep the original roll at his residence open to inspection at any reasonable time.

Date of posting may be noted on roll

(4) The secretary may enter on the assessment roll the date on which the same is posted up and initial the same and the entry of such date and initials shall be *prima facie* evidence of the posting of the roll on the date so entered without proof of the appointment of or initialing by the secretary.

Correction of error in roll

(5) *If at any time within two months after the posting of the roll it is discovered that any person liable to assessment is not assessed or that there is any error in any of the particulars*

*contained in the roll the board may direct the secretary to enter the name of such person on the roll or correct the error.*

**Notice to person affected**

(6) *In the event of any addition to or alteration or correction of the roll under the next preceding subsection without the knowledge and consent of the person affected a notice as required by subsection (2) shall be sent to such person and for the purposes of this and the next following section the date of mailing such notice shall as respects him be deemed to be the date of posting the roll.* 1901, c. 30, s. 10 and 1903, Sess. 1, c. 21, s. 1.

**Appeal from assessment**

**11.** Any person who objects to his assessment may within fifteen days after the posting of the roll appeal from such assessment by giving notice of such appeal in writing to the justice of the peace nearest the residence of the secretary and such justice shall at the expiration of the time for appealing notify the secretary and appellant of the time and place when all appeals will be heard which shall not be later than thirty days after the posting of the roll and the finding of the justice upon such appeal shall be final.

**Secretary to appear and produce roll, etc.**

(2) At the time and place fixed by the justice of the peace the secretary shall appear and produce the assessment roll and all documents and papers in his custody relating to the appeal.

**Free to justice**

(3) With every notice of appeal there shall be paid to the justice of the peace by the appellant the sum of $2 for his fee for hearing the appeal and in the event of the appeal being allowed the justice shall order the board to pay to the appellant the amount of the fee so paid by him.

**Alteration in roll**

(4) Every alteration in the roll necessitated by the result of any such appeal shall be made and initialed by the justice of the peace.

**Appeal to judge**

(5) *An appeal shall lie from the decision of the justice of the peace to a judge of the supreme court and for the purpose of such appeal the provisions of section 41 shall apply.* 1901 c. 30, s. 11 and 1903, Sess. 1, c. 21, s. 2.

**Rate to be struck**

**12.** After the expiration of fifteen days from the posting of the roll if no notices of appeal have been given or after all appeals have been decided the board shall make an estimate of the probable expenditure of the district for the current year and shall strike such a rate not exceeding ten cents per acre on the number of acres of land in the district shown on the assessment roll as shall be sufficient to meet such probable expenditure. 1901, c. 30, s. 12.

**Tax roll**

**13.** The secretary shall thereupon prepare a tax roll by entering on the assessment roll the rate per acre struck as in the next preceding section provided and the amount of taxes payable by each person assessed for the current year.

**Minimum tax**

(2) *In the event of the total tax of any person being less than $2 under this section the tax to be entered on the roll and payable by him shall be the said sum of $2.* 1901, c. 30, s. 13 and 1903, Sess. 1, c. 21, s. 3.

**Tax roll to be delivered to treasurer**

**14.** The secretary if there be both a secretary and a treasurer shall deliver the tax roll to the treasurer as soon as may be after it has been prepared and the treasurer shall post a copy thereof in the school house or if there be no school house in the district in a conspicuous place outside his residence and retain the original at his residence open to inspection by any ratepayer at any reasonable time.

**Copy to be posted**

**Date of posting may be noted on roll**

(2) The treasurer may enter on the tax roll the date on which the same is posted up and initial the same and the entry of such date and initials shall be *prima facie* evidence of the posting of the roll on the date so entered without proof of the appointment of or initialing by the treasurer.

**Tax notice to be sent**

(3) The treasurer shall mail to each person assessed whose address is known to him a notice of the amount of his taxes and the entry of the date of mailing of each such notices with the initials of the treasurer on the tax roll shall be *prima facie* evidence of the mailing of the notice on the date entered without proof of the appointment or signature of the treasurer and the absence of any entry of such date and initials shall be *prima facie* evidence that the person's address is unknown.

**Rebate in taxes**

(4) *The board may by resolution allow a rebate not to exceed ten per cent. upon all taxes paid within thirty days after such taxes have become payable.* 1901, c. 30, s. 14 and 1903, Sess. 1, c. 21, s. 4.

**Taxes a lien**

**15.** The taxes accruing upon or in respect of any land in the district shall be a special lien upon such land having priority over any claim, lien, privilege or incumbrance thereon except claims of the crown and local improvement and irrigation district taxes *and shall bear interest at the rate of six per cent. per annum from the thirty-first day of December of the year in which they are imposed.* 1901, c. 30, s. 15 and 1903, Sess. 1, c. 21, s. 5.

## RECOVERY OF TAXES.

**Distress for taxes**

**16.** In case any person fails to pay the taxes assessed against him within thirty days after the posting of the tax roll the treasurer may by himself or his agent levy the same with costs by distress of the goods and chattels of the person against whom the same are assessed situated within the district or of any goods and chattels found upon the land in respect of which the taxes are due the property of or in the possession of any other occupant of the premises and the costs chargeable shall be the same as those allowed in the schedule to chapter 34 of *The Consolidated Ordinances 1898.*

(2) The treasurer shall by advertisement posted up in at least five public places in the district give at least ten days' public notice of the time and place of sale and the name of the person if known for payment of whose taxes the property is to be sold and at the time named in the notice the treasurer or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes due with all lawful costs including $1 for posting notices.

(3) If the property distrained has been sold for more than the amount of taxes and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus it shall be paid to the person in whose possession the property was when the distress was made.

(4) If the claim is contested such surplus money shall be paid over by the treasurer to the clerk of the supreme court within whose jurisdiction such school is situated who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise. 1901, c. 30, s. 16.

**17.** Any taxes or arrears of taxes due to a district may be recovered by suit in the name of the board as a debt due to the district; in which case the tax roll shall be *prima facie* evidence of the debt. **Suit for taxes**

(2) For the purposes of this section all taxes shall be deemed to be due on the day on which the tax roll is posted up as provided in section 14 hereof. 1901, c. 30, s. 17.

**18.** The treasurer shall enter all amounts paid him for taxes on the original tax roll opposite the lot or parcel of land in respect of which such payment is made; and shall issue an official receipt for all such payments. **Taxes paid to be entered on roll**

(2) Payments made on account of taxes due in respect of any land shall be first applied in payment of arrears of taxes due in respect of such land since the first day of January, 1902. 1901, c. 30, s. 18. **Arrears first charge on payments**

### RETURN OF UNPAID TAXES.

Return of unpaid taxes

**19.** The treasurer of every district shall within the first fifteen days of January in each year make a return verified by his solemn declaration to the commissioner in such form as may by the commissioner be from time to time prescribed showing all lands in the district in respect of which taxes have not been paid together with the years for which such taxes are due.

(2) The return for all purposes shall be *prima facie* evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed. 1901, c. 30, s. 19.

Application to judge for appointment for confirmation

**20.** On application by the attorney general of the Territories or some advocate authorised by him to a judge of the supreme court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the vicinity of the lands entered on such return to be named by the commissioner.

(2) A notice of the time and place fixed for confirmation of such return shall be sent by mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper land titles office or by the said return to have any interest in the lands mentioned in the said return in respect of which confirmation is desired and whose post office address is shown by said records or return; and the entry against such lands of the date of mailing such notice together with the initials of the clerk of the department mailing the same shall without proof of the appointment or signature of the said clerk be *prima facie* evidence that the required notice was mailed on the date so entered. 1901, c. 30, s. 20.

Adjudication by judge

**21.** At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; and thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default; and report the adjudication to the said attorney general; and shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years after the coming into force of this Ordinance naming the amounts of such arrears and of any arrears prior to the coming into force of this Ordinance severally and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the application; and the effect of such adjudication shall be to vest in the crown for the public use of the Territories the said lands subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by the payment to the commissioner of the amounts named including expenses as aforesaid together with a redemption fee of five cents for each and every acre in the parcel so redeemed and any subsequent taxes paid by the commissioner; but no such redemption fee shall be less than $2.

(2) For the purposes of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.

(3) In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the commissioner.

(4) A copy of such adjudication certified by the commissioner shall be forwarded to the registrar of land titles of the land registration district in which the lands named in the adjudication or any of them are situated; and such copy shall be notice to the public of the facts contained therein. 1901, c. 30, s. 21.

**Payment after appointment**

**22.** If any person interested in the parcel of land contained in the return presented to the judge for confirmation as provided by section 21 of this Ordinance pays the taxes upon such land before the date fixed for confirmation of such return but after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue be liable to pay the sum of $2 for each quarter section or portion thereof for costs of application to the judge and advertising and postage in connection with such proceedings; and any sums so paid shall form part of the Territorial revenue. 1901, c. 30, s. 22.

**Order vesting title in crown**

**23.** At any time after the expiration of the year last named on *ex parte* application by the attorney general or some advocate appointed by him and upon production of the last named adjudication together with a certificate of the commissioner showing that the land has not been redeemed the judge by order in chambers may direct that the title to such of the land named in the adjudication as has not been redeemed by the owner be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatever nature and kind the same may be except local improvement and irrigation district taxes. 1901, c. 30, s. 23.

Payment of taxes by commissioner after confirmation

**24.** So soon as the return of the treasurer has been confirmed the commissioner shall pay to the treasurer the amount of taxes adjudged in arrears since the coming into force of this Ordinance on each parcel of land deducting therefrom any charges he may have been required to pay; and thereafter while owned by his Majesty the said land shall be assessed in the name of the commissioner who shall pay taxes as if the land were assessed to an ordinary individual.

(2) Upon a sale of every such parcel of land any surplus derived from such sale over and above the amount of all sums paid by the commissioner in respect thereof for taxes or otherwise howsoever together with six per cent. per annum thereon to the extent of all arrears of taxes whether imposed before or after the coming into force of this Ordinance which have not theretofore been paid to the treasurer of the district shall be paid to him. 1901, c. 30, s. 24.

## ASSESSMENT AND TAXATION IN VILLAGE DISTRICTS.

Application of sections 26 to 87

**25.** The following sections numbers 26 to 87 inclusive shall apply to Village districts only. 1901, c. 30, s. 25.

Property assessable

**26.** All property real and personal in any village district not herein declared exempt from taxation shall be subject to assessment and taxation for school purposes.

Exemptions

(2) The property exempt from taxation under the provisions of this Ordinance shall be:

1. All the property held by his Majesty or for the public use of the Territories;

2. All property held by or in trust for the use of any tribe of Indians or the property of the Indian department;

3. Where any person is occupant of or interested in any property mentioned in either of the two preceding clauses otherwise than in an official capacity the occupant or person interested shall be assessed in respect thereof but the property itself shall not be liable beyond the interest of the person assessed;

4. The buildings and grounds to the extent of two acres of all public and separate schools and the personal property belonging to the same being used for school purposes and under the management of the department of education of the Territories;

5. A building used for church purposes and not used for any other purpose for hire or reward and the lot or lots whereon it stands not exceeding one half acre except such part as may have any other building thereon;

6. Any land in use as a public cemetery not exceeding twenty-five acres;

7. The annual income of any person derived from any source;

8. Grain, hay, household effects of every kind, books and wearing apparel;

9. The increase in the value of the land by reason of the annual cultivation thereof together with the growing crops or by reason of the cultivation of trees;

10. All works constructed, operated and used in connection with irrigation ditches as well as the ditches themselves operated under and subject to the provisions of *The North-West Irrigation Act 1898*:

Provided however that should any such works and ditches be not operated during one year then such works and ditches shall not be exempt from taxation during the year following that in which said works were not operated. 1901, c. 30, s. 26.

**27.** As soon as may be in each year the assessor shall prepare an assessment roll for the district in which shall be set down according to the best information available a list of all taxable property in the district with the names of the occupants and owners if such can be procured and such roll may be in form E in the appendix hereto. 1901, c. 30, s. 27.

Assessment roll

**28.** A person owning or occupying property not liable to taxation may compel the assessor on written demand to assess him for such property in order that he may thereby be qualified for voting or holding office. 1901, c. 30, s. 28.

Right to waive exemption from taxation

**29.** Land and personal property shall be assessed to the person in occupation or possession thereof unless in the case of a nonresident owner such owner shall in writing require the assessor to assess him alone for such property.

Occupant to be assessed

(2) Taxes may be recovered by any of the manners herein authorised either from the owner or occupant. 1901, c. 30, s. 29.

Recovery of taxes

**30.** Real and personal property shall be estimated at their actual cash value as they would be appraised in payment of a just debt from a solvent debtor. 1901, c. 30, s. 30.

Assessment cash value

Stock in trade

**31.** In assessing stock in trade the assessor shall assess a person, firm or corporation for the amount of the average stock in trade kept on hand by such person, firm or corporation during the twelve months immediately prior to the date of assessment. 1901, c. 30, s. 31.

Assessor may require statement

Omission to furnish

Penalty

**32.** Any person may be required by the assessor to deliver to him a written statement of all property for which he is liable to be assessed with such other information as to owner, occupant, location and value or other necessary particulars as may be demanded and if he fails to do so or knowingly makes any false statement such person shall upon complaint of the assessor forfeit and pay a fine not exceeding $50 to be recovered upon summary conviction. 1901, c. 30, s. 32.

Completion of roll

Verification

**33.** The assessment roll shall be completed by the first day of April or so soon thereafter as may be in each year and the assessor shall before handing the roll over to the secretary of the board make an affidavit which shall be inscribed upon the roll that the statements contained therein are correct to the best of his knowledge and belief and the roll when so verified shall be *prima facie* evidence of the statements therein contained. 1901, c. 30, s. 33.

Delivery of roll to secretary

**34.** The assessor shall thereupon deliver the assessment roll to the secretary of the board who shall file the same and indorse thereon the date of such filing. 1901, c. 30, s. 34.

Assessment roll open for inspection

**35.** The secretary shall until the sitting of the court of revision at all reasonable times keep the roll open to the inspection of all persons resident or owning or in the possession of property within the district or the agents of such persons appointed in writing and the overseer of the village may have access to the assessment roll at all reasonable hours. 1901, c. 30, s. 35.

## COURT OF REVISION.

Fixing date of court of revision

**36.** Within ten days after the filing of the roll the board shall appoint a day, hour and place when it shall sit as a court of revision and it shall cause to be posted up at least twenty days before the meeting of such court in at least five conspicuous places within the district one of which shall be the post office therein notices as in form F in the appendix hereto.

(2) The court of revision shall be held not earlier than forty days not later than fifty days after the filing of the roll:

Provided that in the event of no appeal being received as provided by sections 38 and 39 of this Ordinance the holding of the court of revision may be dispensed with. 1901, c. 30, s. 36.

Notice of assessment

**37.** Within ten days after the time for holding the court of revision has been fixed the secretary shall give notice in writing by post or otherwise to every person whose name appears upon the assessment roll and whose address is known in form G in the appendix hereto. 1901, c. 30, s. 37.

Appeal to court of revision

**38.** Any person complaining of an error or omission in regard to himself as having been wrongfully inserted or omitted from the roll or as having been overcharged by the assessor in the roll may personally or by his agent give notice in writing to the secretary that he considers himself aggrieved for any or all of the causes aforesaid.

Notice to be given

(2) The notice shall be given to the secretary at least five days before the day fixed for the sitting of the court of revision. 1901, c. 30, s. 38.

Complaint as to assessment of third party

**39.** If any ratepayer thinks that any person has been assessed too high or too low or has been wrongfully entered on or omitted from the roll or that any property of any person has been misdescribed or omitted from the roll he may not later than fifteen days before the day fixed for the court of revision give notice in writing to the secretary and the secretary shall forthwith give notice in writing to each person with respect to whom a complaint has been made in form J in the appendix hereto. 1901, c. 30, s. 39.

Court of revision

**40.** At the time appointed unless there are no appeals the board shall sit as a court of revision to consider all appeals and complaints that have been received by its secretary in accordance with the provisions of this Ordinance in that behalf and it shall have power to take evidence under oath and shall alter and amend the roll if necessary in accordance with its decision in each case.

Adjournment of sitting

(2) The court of revision may adjourn from time to time but no adjournment shall be for a longer period than one week.

Roll final when passed

(3) The roll as finally passed by the court and certified by the secretary as passed shall except in so far as the same may be further amended on appeal to a judge of the supreme court be valid and bind all parties concerned notwithstanding any defect or error committed in or with regard to such roll or any defect or error or misstatement in the notices required by sections 36, 37 and 39 of this Ordinance or the omission to deliver or transmit such notices.

Amendment of whole roll

(4) The court of revision may if in its discretion it deems proper declare the whole roll void and in that event a new assessment shall be made in accordance with the provisions of this Ordinance as if no assessment had been made. 1901, c. 30, s. 40.

## APPEAL FROM COURT OF REVISION.

Appeal to judge of supreme court

**41.** If any person is dissatisfied with the decision of the court of revision he may appeal therefrom to a judge of the supreme court; in all cases of such appeals the proceedings shall be as follows:

Notice of appeal

1. The person appealing shall in person or by his agent serve upon the secretary of the school district within eight days after the decision of the court of revision a written notice of his intention to appeal to a judge of the supreme court in which shall be stated the grounds of appeal;

List of appeals for judge

2. The secretary shall immediately after the time limited for filing notice of appeals forward a list of all appeals filed to the judge of the supreme court usually exercising jurisdiction in the judicial district of which such district forms a part or if such district forms a part of more than one judicial district then to the judge whose official residence is nearest the district and the judge shall thereupon appoint a time and place for holding a court to hear such appeals and shall notify the secretary of such appointment;

Clerk of court

3. The secretary of the district shall be the clerk of such court;

Notice of hearing appeals

4. The secretary shall thereupon give notice to all the parties appealing and appealed against in the same manner as is provided for giving notice on a complaint to the court of revision specifying the time and place when and where the appeal will be heard but in the event of failure by the secretary to have the required service of notice in any appeal made or to have the same made in proper time the judge may direct service to be made for some subsequent day upon which he may sit;

**List of appeals etc., to be posted**

5. The secretary of the district shall cause a conspicuous notice to be posted up in his office or the place where the board holds its sittings containing the names of the appellants and parties appealed against with a brief statement of the ground or cause of appeal together with the time and place at which a court will be held to hear appeals;

**Hearing of appeals**

6. At the court so holden the judge shall hear and determine the appeals and may adjourn the hearing from time to time and defer judgment thereon at his pleasure but so that all appeals may be determined before the first day of September:

**Determination**

Provided that the judge may either before or after the said first day of September in his discretion extend the time for the determination of appeals beyond the said first day of September upon proof that the assessment roll was not complete in time to allow of such appeals being determined prior to the said date;

**Production of roll and papers to judge**

7. At the court to be holden by the judge to hear and determine the appeals hereinbefore provided for the person having charge of the assessment roll passed by the court of revision shall appear and produce such roll and all papers and writing in his custody connected with the matter of appeal and such roll shall be altered and amended if necessary according to the decision of the judge who shall write his initials opposite any part of the said roll in which any alteration or amendment is made unless the decision is not then given in which case the secretary of the district shall when the decision is given forthwith alter and amend the roll if necessary according to the same and write his name opposite every such alteration or amendment;

**Correction of roll**

**Powers of judge**

8. In all such proceedings the judge shall possess all the powers for compelling the attendance and for the examination on oath of all parties whether claiming or objecting or objected to and all other persons whatsoever and for the production of books, papers, rolls and documents and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the supreme court;

**Intituling process**

9. All process or other proceedings in, about or by way of appeal may be intituled as follows:

"In the matter of appeal from the court of revision of the school district of

*A.B.*

*Appellant,*

and

*C.D.*

*Respondent;*"

Costs

10. The costs of any proceeding before the judge as aforesaid shall be paid by or apportioned between the parties in such manner as the judge thinks proper; and where costs are ordered to be paid by any party the same shall be enforced by execution to be issued as the judge may direct from the supreme court or in the same manner as upon an ordinary judgment for costs recovered in such court:

Allowances for costs

11. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other the same to be taxed according to the allowance in the supreme court for such costs; and in case where execution issues the like costs thereof as in the said court and of enforceing the same may also be collected thereunder;

Judgment final

12. The decision and judgment of the judge shall be final and conclusive in every case adjudicated upon. 1901, c. 30, s. 41.

## RATE OF TAXATION.

Rate to be struck

**42.** So soon as the assessment roll has been finally revised by the board as aforesaid they shall make an estimate of the probable expenditure of the district for the current year and shall strike such a rate of assessment on the assessed value of the taxable property within the district for the school they represent as shall be sufficient to meet such probable expenditure making due allowance for charges and probable loss in collection.

Rate limit

(2) Such rate shall not exceed twelve mills on each dollar of property liable to taxation for ordinary school purposes with such additional rate per dollar as may be necessary to meet any debenture indebtedness that may have been incurred by such district on the terms upon which it was incurred. 1901, c. 30, s. 42.

## COLLECTION OF TAXES.

Collector's roll
Contents

**43.** The board shall cause to be made out a collector's roll for the district on which shall be set down the name of every person assessed, the assessed value of his real and personal property and the amount with which such person is chargeable according to the rate of taxation struck in respect of sums ordered to be levied by the board with any other particulars that may be necessary and such roll shall be placed in the hands of the treasurer or collector duly appointed by the board.

Rebate in taxes

(2) The board may by resolution allow a rebate not to exceed ten per cent. upon all taxes paid within thirty days after the same have become payable. 1901, c. 30, s. 43.

**Collector's notice**

**44.** As soon as the treasurer or collector shall have received the collector's roll he shall remit or cause to be remitted by mail or otherwise to each person whose name appears upon it as assessed for taxes whose address is known a notice in form L in the appendix hereto.

(2) If the board appoints some person other than the treasurer to be collector such person before receiving any money as such collector shall furnish security in the same manner and to the same amount as is required by *The School Ordinance* in the case of the treasurer. 1901, c. 30, s. 44.

**Receipt and entry of payment**

**45.** The treasurer or collector as the case may be shall give receipts on behalf of the district for all taxes paid to him and shall enter the fact of such payment with the date on the collector's roll.

**Appropriation**

(2) Payments made on account of taxes due upon any land shall be first applied in payment of arrears of taxes due upon such land. 1901, c. 30, s. 45.

**Collector to name defaulters to board**

**Action thereon**

**46.** The treasurer or collector shall notify the board from time to time of the names of persons who fail to pay the taxes assessed against them and the board may take or authorise to be taken such action for the collection of such taxes as is hereinafter provided. 1901, c. 30, s. 46.

**Levy by distress**

**Costs**

**47.** In case any person fails to pay the taxes assessed against him within the thirty days specified in the notice provided by section 44 of this Ordinance the treasurer or collector may by himself or his agent levy the same with costs by distress of the goods and chattels of the person against whom the same are assessed situated within the school district or of any goods and chattels found upon the premises assessed the property of or in the possession of any other occupant of the premises and the costs chargeable shall be those allowed in the schedule to chapter 34 of *The Consolidated Ordinances 1898*. 1901, c. 30, s. 47.

**Sale of distrained property**

**Procedure**

**48.** The treasurer shall by advertisement posted up in at least three public places in the school district and also by publishing the same in a newspaper published in or near to the said school district give at least six days' public notice of the time and place of sale and the name of the person for payment of whose taxes the property is to be sold and at the time named in the notice the treasurer or collector or his agent shall sell at public auction the goods and chattels distrained or so much thereof as may be necessary to pay the taxes assessed with all lawful costs including the cost of advertisement. 1901, c. 30, s. 48.

Disposition of surplus

**49.** If the property distrained has been sold for more than the amount of taxes and costs and if no claim to the surplus is made by any other person on the ground that the property sold belonged to him or that he was entitled by lien or other right to the surplus it shall be paid to the person in whose possession the property was when the distress was made.

(2) If any such claim is made by the person for whose taxes the property was distrained and the claim is admitted the surplus shall be paid to the claimant.

(3) If the claim is contested such surplus money shall be paid over by the treasurer or collector of the district to the clerk of the supreme court within whose jurisdiction such school is situated who shall retain the same until the respective rights of the parties have been determined by action at law or otherwise. 1901, c. 30, s. 49.

Recovery of taxes as a debt

Evidence

**50.** The taxes may be recovered by suit as a debt due to the district in which case the production of the collector's roll or a copy of so much thereof as relates to the taxes payable by the person and certified as a true copy by the secretary of the district shall be *prima facie* evidence of the debt. 1901, c. 30, s. 50.

### ARREARS OF TAXES.

Return of roll

Account

Verification

**51.** The treasurer or collector as the case may be shall on or before the first day of December in each year return the collector's roll to the secretary of the board with an account of all moneys received by him accompanied by an affidavit made before a justice of the peace or other person authorised to take affidavits that the collection and other proceedings have been taken in accordance with the terms of this Ordinance and that all the returns contained therein are correct. 1901, c. 30, s. 51.

Return of arrears

**52.** The treasurer or collector as the case may be shall at the same time make a return verified by affidavit as provided in the next preceding section of all property upon which the taxes or any portion thereof remain unpaid.

Copy to be filed

Inspection

(2) A copy of such return shall be kept on file by the secretary of the district and shall be open to inspection of the ratepayers of the district or their agents. 1901, c. 30, s. 52.

Taxes special lien

Priority

**53.** The taxes accrued on any land or property or in respect of the ownership or occupancy of any land or property shall be a special lien upon such land or property having preference over any claim, lien, privilege or incumbrance of any party except claims of the crown and local improvement, irrigation district or village taxes and shall bear interest at the rate of six per cent. per annum from the time of the return of the collector's roll to the secretary. 1901, c. 30, s. 53. Interest

**54.** Such accrued taxes shall be entered upon the collector's roll of the district against such property from year to year and the payment of such taxes shall be enforceable at all times in any of the manners provided by this Ordinance for the enforcement of the payment of taxes. 1901, c. 30, s. 54. Collection of arrears

**55.** Whenever the treasurer or collector is satisfied or is notified by the board that there is sufficient distress upon any real property within the district which is in arrears for taxes he may proceed to levy the amount due in the manner and under the same provisions as are contained in sections 47, 48 and 49 of this Ordinance. 1901, c. 30, s. 55. Distress for arrears

### SALE OF LAND FOR TAXES.

**56.** Whenever any portion of the taxes on any land has been due for two years from the first day of January in the year in which the same was imposed whether imposed before or after the coming into force of this Ordinance the treasurer shall submit to the chairman a list in duplicate of all the lands in his book on which taxes are so due with the amount of arrears against each lot set opposite to the same and the treasurer shall authenticate each such lists by affixing thereto the seal of the corporation and his signature and one of such lists shall be deposited with the secretary and the other shall be given to the treasurer with a warrant thereto annexed under the hand of the chairman and the seal of the board commanding him to levy upon the land for the arrears due thereon with costs and the said treasurer is hereby authorised to sell the same. 1901, c. 30, s. 56. List of lands for tax sale. Warrant to treasurer to sell

**57.** The said treasurer shall not sell any lands which have not been included in the list furnished him as aforesaid. 1901, c. 30, s. 57. Only listed lands to be sold

**58.** The treasurer shall prepare a copy of the list of lands to be sold as authorised by this Ordinance and shall include therein in a separate column a statement of the proportion of cost chargeable on each parcel for advertising and the sum of twenty-five cents for each parcel advertised for sale and shall cause the said list to be published at least once a week for four Publication of list. Contents consecutive weeks in at least one newspaper published in the school district or if there is no newspaper published therein in the newspaper published nearest to the school district.

**Notice of tax sale to be published in the gazette**

(2) The treasurer shall also cause to be published in *The North-West Territories Gazette* during two consecutive issues of the same between the date of the first publication in the newspaper above mentioned and the date of sale a notice in form N in the appendix hereto. 1901, c. 30, s. 58.

**Advertisement**

**Date and place of sale**

**59.** The advertisement in a newspaper shall contain notification that unless the arrears of taxes and costs are sooner paid the treasurer will proceed to sell the lands for taxes on the day and at the place mentioned in the advertisement. 1901, c. 30, s. 59.

**Hour of sale**

**Description of lands**

**60.** Every such notice shall specify the place, day and hour at which the sale shall commence and each lot or parcel of land shall be designated therein by a reasonable description for registration purposes. 1901, c. 30, s. 60.

**All lots saleable to be included**

**Omissions**

**61.** All the lots or parcels liable for sale in the school district shall be included in the same statement and notice but any neglect or omission to include any lands liable for sale in the said list shall not be held to invalidate the sale or to prevent the sale of such omitted land on any future occasion for all arrears of taxes that may be due thereon. 1901, c. 30, s. 61.

**Day and place of sale**

**62.** The day of sale shall not be less than ten days nor more than forty days after the last publication of the list and the sale shall take place at such place in the district as the board shall by resolution appoint and in the absence of such appointment at such place in the district as the treasurer in his said notice shall name. 1901, c. 30, s. 62.

**Adjournment**

**63.** If at any time appointed for the sale of lands no bidders appear the treasurer may adjourn the sale from time to time:

Provided always that no such adjournment shall be for a period exceeding fifteen days. 1901, c. 30, s. 63.

**Proceedings at sale**

**64.** At the place, day and hour appointed for the sale of lands if the taxes thereon including costs and charges have not previously been paid the treasurer shall offer the lands for sale by public auction and in so doing shall make and declare the amounts stated in the lists as the taxes due with the charges and costs as the upset price on each respective lot or parcel as offered for sale and shall thus sell the same to the highest bidder or to such person as may be willing to take it at the upset price there being no higher bidder but subject to redemption as hereinafter provided for. 1901, c. 30, s. 64.

Upset price

Sale to board if no bidders

**65.** If no bidder appears for any land for the full amount of arrears of taxes, costs and charges the treasurer shall there and then sell the same to the board at the upset price. 1901, c. 30, s. 65.

Where land sold for more than amount of taxes

**66.** If the land sells for a greater sum than the taxes due together with all charges thereon the purchaser shall only be required to pay at the time of sale the amount of said taxes and charges and the balance of the purchase money shall be payable within one calendar month after the time of redemption of said land shall have expired without the same having been redeemed within the time limited and if the said balance of purchase money shall not be so paid by the purchaser, his heirs or assigns within the time above prescribed he and they shall forfeit all claim to the said land and to any transfer or conveyance thereof as well as the amount paid at the time of sale and such land shall thereupon cease to be affected by said sale. 1901, c. 30, s. 66.

Payment of purchase money

Default by purchaser

Purchaser failing to pay price

**67.** If the purchaser of any parcel of land fails immediately to pay the treasurer on account of said purchase the amount claimed for arrears of taxes and charges the treasurer shall forthwith again put up the property for sale. 1901, c. 30, s. 67.

Treasurer to give certificate

**68.** The treasurer after selling any land for taxes shall give to the purchaser a certificate describing the land as advertised stating the amount of taxes and costs paid and the total amount of purchase money and further saying that a transfer of the same to the purchaser or his assigns shall be executed by the treasurer on his or their demand within one month after the expiration of one year from the date of the certificate if the land be not previously redeemed upon payment of the balance of the purchase money if any remains unpaid and upon payment of $2 for said transfer. 1901, c. 30, s. 68.

Rights of purchaser

**69.** The purchaser shall on receipt of the treasurer's certificate of sale become the owner of the land so far as to have all the necessary rights and powers for protecting the same from spoliation or waste until the lands may be redeemed. 1901, c. 30, s. 69.

Statement of lands sold

**70.** A statement of the land so sold for arrears of taxes with the names of the respective purchasers, the date of sale, the time of redemption and the amount required to redeem shall within thirty days of the date of sale or adjourned sale be made out and signed by the treasurer in duplicate and one copy shall be kept by the treasurer and the other deposited with the secretary and either of the said lists may be inspected at any time during office hours for a fee of ten cents for each lot of which inspection is desired. 1901, c. 30, s. 70.

Inspection of

REDEMPTION OF LANDS SOLD.

Redemption of lands sold

**71.** The owner of any land which may hereafter be sold for taxes or his heirs, executors, administrators or assigns or any other person on his or their behalf may at any time within one year from the date of sale exclusive of that date redeem the land sold by paying to the treasurer before the hour of three o'clock in the afternoon of the said last day for redemption for the use and benefit of the purchaser or his legal representatives the sum paid by him together with ten per centum thereon and any further or other tax or sum which shall have been imposed or levied against said land and paid by the purchaser before the date of redemption and the treasurer shall give the party paying such redemption money a receipt stating the sum paid and the object thereof and such receipt shall be evidence of the redemption.

(2) The treasurer shall before giving such receipt ascertain from the purchaser what further or other tax or sum if any has been paid by him under the authority of this section. 1901, c. 30, s. 71.

Sale to be as on date advertised

**72.** For the purpose of this Ordinance the day of sale shall be the day on which the sale was advertised to take place without reference to any adjournment or adjournments and all certificates shall be dated as of that day. 1901, c. 30, s. 72.

On redemption purchaser's rights cease

**73.** From the time of payment to the treasurer of the full amount of redemption money required by this Ordinance all rights and interests of the purchaser shall cease. 1901, c. 30, s. 73.

Person not specially authorised redeeming

**74.** Whenever such redemption is effected by a person not specially authorised the treasurer shall mention in the receipt given by him for the redemption money the name and designation of the person paying the same, the name of the person on whose behalf the payment is made and every redemption receipt shall be made out in triplicate, one copy shall be given to the person paying the redemption money, one shall remain on file in the office of the treasurer and the third shall be transmitted to the secretary by the treasurer. 1901, c. 30, s. 74.

**75.** The treasurer shall also immediately after the redemption of any land give notice by registered letter to the party appearing by his books to be the purchaser of the same apprising him of the fact of such redemption and the amount of money paid in for such purpose. 1901, c. 30, s. 75.

**On redemption notice to purchaser**

TRANSFER IN CASE OF NONREDEMPTION.

**76.** If the land be not redeemed within the period allowed by this Ordinance then on demand of the purchaser, his heirs or assigns or other legal representatives at any time within one month after the expiration of the time limited for the redemption upon payment of the balance of purchase money as aforesaid and of the further sum of $2 the treasurer shall prepare and execute and deliver to him or them a transfer of the land sold in form P in the appendix or to the like effect:

**Land not redeemed**

**Transfer**

Provided that any land sold to the school board under the provisions of this Ordinance as hereinbefore provided shall be transferred to the board immediately on the expiration of the time allowed for redemption without charge. 1901, c. 30, s. 76.

**Proviso**

**Transfer to board**

**77.** Such transfer shall upon confirmation of the sale by a judge of the supreme court vest in the purchaser all rights of property which the original holder had therein and shall also purge and release such land from all payments, charges, liens, mortgages and incumbrances of whatever nature and kind other than existing liens of the school district or crown and local improvement, irrigation district and village taxes and whenever lands are sold for arrears of taxes and the treasurer shall have given a transfer thereof such transfer shall notwithstanding any informality or defect in or preceding such sale be valid and binding to all intents and purposes except as against the crown. 1901, c. 30, s. 77.

**Transfer exonerates land from prior charges**

**78.** After the expiration of one year from the date of any such transfer the sale and transfer may be set aside only upon its being shown either:

1. That there has been fraud or collusion; or
2. That all taxes have been paid; or
3. That the land was not liable to assessment. 1901, c. 30, s. 78.

### ILLEGAL SALES. LIABILITY OF BOARD.

School board liability limited

**79.** In no case shall the board of any district be liable for damages or costs in any suit brought to set aside a tax sale or be liable for any damages or costs arising therefrom or incur any liability other than in case of a sale declared void by a competent court that of refunding to the purchaser the amount of money actually received with legal interest. 1901, c. 30, s. 79.

When title in crown

**80.** When the title of any land sold for arrears of taxes is vested in the crown the transfer thereof in whatever form given shall be held to convey only such interest as the crown may have given or parted with or may be willing to recognise or admit that any person possesses under any colour or right whatever. 1901, c. 30, s. 80.

### TAX SALES FUND.

Tax sale fund

**81.** The treasurer shall keep a separate account in a chartered bank at the joint credit of the chairman and treasurer of all sums paid to him as balances of purchase money on lands sold for arrears of taxes and not redeemed and shall enter in a book the amount received from the purchaser of any lot sold by him over the taxes and charges against said lot with date of sale and of receipt of balance and the aggregate amounts so received shall form a fund to be called the tax sales fund and the treasurer shall in the month of January in each year and on request at any other time furnish a statement to the board giving the particulars respecting such fund and whenever any portion of such fund shall have remained to the credit of the account for six years from the day of sale of the land of the purchase money of which it forms a part without any notice of claim or order for payment having been served on him as hereinafter provided any right to such portion or sum so remaining unclaimed shall be forfeited and thereafter it shall be the absolute property of the board and the said board shall forever be discharged from any claim on account thereof. 1901, c. 30, s. 81.

Lapse to board of unclaimed balances

Claims on tax sales fund

**82.** Any person claiming to have been interested in any parcel of land sold for taxes and transferred as aforesaid which shall have realised more than the amount due for taxes and charges shall be entitled to claim and receive the said overplus or sum or any portion thereof specified in the order hereinafter mentioned provided that a written notice is served upon the treasurer previous to the time limited for forfeiture upon producing and leaving with the treasurer within six months from the date of service of such notice of claim an order signed by a judge of the supreme court of the Territories reciting that it had been proved to the satisfaction of the said judge that the claimant was at the time of sale interested in the said land and requiring the school board to pay the said surplus money or the portion thereof specified in the order to the said claimant and such or any judge's order for payment of any part of the said tax sales fund shall be kept by the treasurer and shall be the warrant and authority for making such payment. 1901, c. 30, s. 82.

Procedure in proof of claim

Judge's order for payment

**83.** In seeking to obtain a judge's order any claimant upon the said fund shall in person or by advocate petition the judge in writing for that purpose describing the land sold and setting forth the particulars of the said sale and the title under which the said money is claimed and shall at the same time furnish such evidence of title as may be necessary for proving his title or interest to the satisfaction of the judge and the facts set forth in the petition shall be verified by affidavit so far as may be necessary to satisfy the judge of the *bona fide* nature of the claim and the said judge may in his discretion require the claimant to serve a notice of his application upon the board or publish the same in any manner he may deem proper or substantiate his claim in any other manner and the judge may in his discretion order said money to be paid over to the clerk of the supreme court there to be dealt with in such manner as the court shall order and in such case a copy of his order stating the reason therefor shall be filed in the said court and served upon the treasurer. 1901, c. 30, s. 83.

Petition to judge

Evidence

Payment into court

**84.** The same fees shall be paid upon any application made under the last preceding section as are payable in respect of applications in chambers for a judge's order in any suit for damages in which the same amount is involved. 1901, c. 30, s. 84.

Fees

**85.** In any case where the judge deems it advisable to order notice to be served upon the board he shall in the final decision of the question if the claimant is successful order the costs of the board to be paid out of the fund in question or by the claimant in case the claimant fails. 1901, c. 30, s. 85.

Costs of school board

**86.** The fact of claiming any surplus held to the credit of any lots sold for taxes in the said tax sales fund shall be considered an admission of the validity of the sale of the lot in question by the claimant and the said claimant and all claiming

Claim to balance admits validity of sale by, through or under him shall from and after the time of making such claim be debarred from taking any proceeding to question or set aside such sale notwithstanding that the said claim shall have been made within the time otherwise limited for taking any proceedings to invalidate any tax sale and the said sale shall thereafter be held to be in all respects valid and binding as against the claimant and those claiming by, through and under him as aforesaid. 1901, c. 30, s. 86.

If tax sale questioned surplus subject to order of court

**87.** Within ten days after the commencement of any suit or proceeding to set aside or question a sale for arrears of taxes the plaintiff shall cause the treasurer to be notified in writing of the fact of the action or proceeding having been commenced and the treasurer in such case shall not forfeit any surplus held by him to the credit of the parcel of land in dispute but shall hold the same subject to the order of the court and in case the plaintiff succeeds the court shall order the said surplus to be repaid to the defendant, the tax sale purchaser or his proper representatives and in case the plaintiff fails in such action or proceeding to set aside such sale but proves to the satisfaction of the court that he was at the time of sale the lawful owner of the said land and the person entitled to the said surplus money according to the true intent and meaning of this Ordinance then in such case the court shall order such surplus money to be paid over to the plaintiff or his proper representatives upon and after payment by the said plaintiff of such costs of the defendant as he may have been ordered by the court to pay. 1901, c. 30, s. 87.

Disposition by court

### ASSESSMENT AND TAXATION IN TOWN DISTRICTS.

**88.** The following sections numbers 89 and 90 shall apply to town districts only. 1901, c. 30, s. 88.

Assessment where district in municipality

**89.** Where a district is situated within a municipality the trustees may as soon as may be after the final revision of the assessment roll of the municipality make a demand on the council of such municipality for the sum required for school purposes for the then current year; but such sums shall not exceed an amount equal to fifteen mills on the dollar according to the last revised assessment roll on the property liable to assessment in such district for ordinary school purposes with such additional amount as may be necessary to meet any debenture indebtedness that may have been incurred and may be coming due.

(2) For the purposes of this section any portion of a town district which is not within the limits of a municipality shall be deemed to be within the limits of the municipality and the

provisions of *The Municipal Ordinance* or of any special Ordinance creating such municipality and any amendments thereto shall apply to such portion as if the same formed a part of the municipality.

Portion of town district outside to be deemed within town municipality

(3) *In the event of a town district being situate partly within a town municipality and partly within a rural municipality for the purposes of this section the portion within the rural municipality shall be deemed to be within the town municipality.* 1901, c. 30, s. 89, and 1903, Sess. 1, c. 21, s. 6.

Property liable to assessment

**90.** Subject to the provisions of this Ordinance and of *The School Ordinance* the property liable to assessment and taxation for school purposes shall be the property liable to assessment and taxation for municipal purposes. 1901, c. 30, s. 90.

### VILLAGE AND TOWN DISTRICTS.

**91.** The following sections numbers 92 and 93 shall apply to village and town districts only. 1901, c. 30, s. 91.

Separate school district

Assessment of joint owners

**92.** In cases where separate school districts have been established whenever property is held by two or more persons as joint tenants or tenants in common the holders of such property being protestants and roman catholics they shall be assessed in proportion to their interest in the property in the district to which they respectively are ratepayers. 1901, c. 30, s. 92.

Separate school district company may be assessed as supporter

**93.** A company may by notice in that behalf to be given to the secretary treasurer of any municipality wherein a separate school district is either wholly or in part situated and to the secretary of the board of any public school district in which a separate school has been established and to the secretary of the board of such separate school district require any part of the real property of which such company is either the owner and occupant or not being such owner is the tenant or occupant or in actual possession of and any part of the personal property if any of such company liable to assessment to be entered, rated and assessed for the purposes of said separate school and the proper assessor shall thereupon enter said company as a separate school supporter in the assessment roll in respect of the property specially designated in that behalf in or by said notice and so much of the property as shall be so designated shall be assessed accordingly in the name of the company for the purposes of the separate school and not for public school purposes but all other property of the company shall be separately entered and assessed in the name of the company as for public school purposes:

Proviso as to proportion of shares held in district

Provided always that the share or portion of the property of any company entered, rated or assessed in any municipality or in any school district for separate school purposes under the provisions of this section shall bear the same ratio and proportion to the whole property of the company assessable within the municipality or school district as the amount or proportion of the shares or stock of the company so far as the same are paid or partly paid up, held and possessed by persons who are protestants and roman catholics as the case may be bears to the whole amount of such paid or partly paid up shares or stock of the company.

Notice to be continuing

(2) Any such notice given in pursuant of a resolution in that behalf of the directors of the company shall for all purposes be deemed to be sufficient and every such notice so given shall be taken as continuing and in force and to be acted upon unless and until the same is withdrawn, varied or cancelled by any notice subsequently given pursuant to any resolution of the company or of its directors.

Notice open to inspection

Assessor to examine

(3) Every such notice so given to such secretary treasurer shall remain with and be kept by him on file in his office and shall at all convenient hours be open to inspection and examination by any person entitled to examine or inspect the assessment roll and the assessor shall in each year before the completion and return of the assessment roll search for and examine all notices which may be on file in the clerk's office and shall thereupon in respect of said notices if any follow and conform thereto and to the provisions of this Ordinance in that behalf.

Fraudulent notice

Penalty

(4) False statements made in any such notice shall not relieve the company from rates. Any company fraudulently giving such notice or making false statements therein shall be liable to a penalty not exceeding $100. Any person giving for a company such a statement fraudulently or wilfully inserting in any such notice a false statement shall be guilty of an offence and liable on summary conviction to a like penalty. 1901, c. 30, s. 93.

### MISCELLANEOUS.

Separate school district

Assessment of owner

**94.** In cases where separate school districts have been established where land is owned by a protestant and occupied by a roman catholic or *vice versa* such land shall be assessed to the owner. 1901, c. 30, s. 94.

Commissioner may declare district a village or town district

**95.** The *commissioner of education* may by order notice of which shall be published in the official gazette declare that for the purposes of this Ordinance and any assessment and taxation thereunder any district shall be deemed to be a village or town district and thereafter all the provisions of this Ordinance relating to village and town districts respectively shall apply thereto and to any municipality within which any such district declared to be a town district is wholly or partly situated. 1901, c. 30, s. 95 and 1903, Sess. 1, c. 21, s. 7.

Lieutenant Governor in Council may adjust acconnts between municipality and rural or village school

**96.** In the case of any district situated wholly or partly within the limits of any municipality which under the provisions of this or any other Ordinance becomes or is declared to be a rural or village district the Lieutenant Governor in Council may make such orders, provisions and appointments as to him may appear necessary for the adjustment, arrangement and settlement of all accounts between any such district and the municipality within which it is wholly or partly situated. 1901, c. 30, s. 96.

### EXECUTIONS AGAINST SCHOOL DISTRICTS.

Execution

Direction to sheriff

**97.** Any writ of execution against the board of any district may be indorsed with a direction to the sheriff to levy the amount thereof by rate; and the proceedings thereon shall be the following:

Copy writ and statement for treasurer

1. The sheriff shall deliver a copy of the writ and indorsement to the treasurer or leave such copy at the office or dwelling house of such officer with a statement in writing of the sheriff's fees and of the amount required to satisfy such execution including such amount of interest calculated to some day as near as is convenient to the day of service;

Nonpayment one month, sheriff to strike execution rate

2. In case the amount with interest thereon from the day mentioned in the statement be not paid to the sheriff within one month after the service the sheriff shall examine the assessment roll of such district and shall in like manner as rates are struck for general school purposes strike a rate on the dollar or on the acre as the case may be on the assessable property in the said district sufficient to cover the amount due on the execution with such addition to the same as the sheriff deems sufficient to cover the interest and his own fees up to the time when such rate will probably be available;

Sheriff's precept to treasurer

3. He shall thereupon issue a precept or precepts under his hand and seal of office directed to the said treasurer and shall by such precept after reciting the writ and that the said board had neglected to satisfy the same command the said treasurer to levy or cause to be levied such rate at the time and in the manner by law required in respect to the general school rates;

Column in tax roll

4. At the time for levying the annual rate next after the receipt of such precept the treasurer shall add a column to the tax roll in the said district headed "Execution rate of A.B. *v.* Board of School District " (*or,* as the case may be, adding a column for each execution if more than one) and shall insert therein the amount by such precept required to be levied upon each person respectively and shall levy the amount of such execution rate as aforesaid; and such treasurer so soon as the amount of such execution or executions is collected shall return to the sheriff the precept with the amount levied thereon;

Levy of rate

Return of precept

Surplus

5. The sheriff shall after satisfying the executions and all fees thereon return any surplus within ten days after receiving the same to the said treasurer for the general purposes of the said district;

Treasurer officer of court

6. The treasurer shall for all purposes connected with carrying into effect or permitting or assisting the sheriff to carry into effect the provisions of this Ordinance with respect to such executions be deemed to be an officer of the court out of which the writ issued and as such shall be amenable to the court and may be proceeded against by attachment, mandamus or otherwise in order to compel him to perform the duties hereby imposed upon him. 1901, c. 30, s. 97.

"Treasurer"

**98.** In the foregoing section the word "treasurer" shall mean:

1. In the case of a village or rural district the treasurer of the school district;

2. In the case of a town district the secretary treasurer of the municipality. 1901, c. 30, s. 98.

Absence of treasurer or refusal to act

**99.** In case of the absence of the treasurer of any village or rural district and the refusal or neglect of the board to appoint some other person in his place or in case of the refusal or neglect of the treasurer to comply with any of the provisions of section 97 hereof the sheriff upon application to a judge of the supreme court may be invested with full power and authority to assess, levy, collect and enforce payment in the same manner as assessors, collectors and treasurers are authorised to do by this Ordinance of such sum or sums of money as may be required to pay and satisfy the execution or executions and all fees and legal expenses including such allowance for the costs, levy, collection and enforcement of payment as the judge may allow:

Sheriff's powers

Provided that any person may within one month from the date of the notice by the sheriff of assessment by him apply to the sheriff to revise such assessment in any respect as to which such person might have appealed to a court of revision and if the sheriff refuses such application appeal may be had to a judge of the supreme court on application to him within eight days after the sheriff's decision of which application notice in writing shall be given to the sheriff and on such application the judge may proceed as in the case of an appeal from a court of revision. 1901, c. 30, s. 99.

### FORMS.

**100.** The several forms in the appendix to this Ordinance to suit the case or forms to the like effect shall be deemed good, valid and sufficient. 1901, c. 30, s. 100.

**101.** This Ordinance shall come into effect on the first day of January, 1902. 1901, c. 30, s. 101. Commencement

(*For Rural Districts. Sections 6 and 13.*)

# APPENDIX.

## FORM A.

### ASSESSMENT AND TAX ROLL.

Of the School District No. of the North-West Territories for the year 190

| ASSESSMENT | | | | | | | TAXATION | | | | | | | | DATE OF POSTING ROLL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| No. on roll | Name of ratepayer<br>(Enter name of owner and occupant if any. If owner is unknown enter unknown) | Post office address | Description of property<br>(State section, township, range or number of lots, etc., as case may be) | Number of acres assessed | Date of mailing assessment notice | Secretary's initials (To be written after each notice mailed) | Rate of taxation on the acre | Amount of taxes for current year | Arrears of taxes due from Jan. 1, 1902 | Total taxes due | Date of mailing tax notice | Treasurer's initials (To be written after each notice mailed) | PAYMENT OF TAXES | | |
| | | | | | | | | | | | | | Amount | Date of Payment | |
| | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 | | | |
| | | | | | | | c | $ c | $ c | $ c | | | | | This assessment roll was posted on the ......day of......190..<br>......Secretary |
| 1 | Owner | | | | | | | | | | | | | | This tax roll was posted on the......day of......190.<br>......Treasurer |
| | (Occupant) | | | | | | | | | | | | | | |
| | | | | | | | | | | | | | | | |

NOTE.—The information required in columns 1, 3 and 4 is to be filled in by the assessor (*see sections* 6 *and* 7) after which the roll is to be delivered to the secretary who will fill in columns 2, 5 and 6 and then post a copy of the roll and fill in and sign the date of posting (*see section* 10). After the rate per acre is struck (*see section* 12) the secretary will fill in columns 7 and 8 (*see section* 13) and then deliver the roll to the treasurer who will fill in columns 9 and 10 and then post a copy of the roll and fill in and sign the date of posting (*see section* 14). The treasurer will also fill in columns 11 and 12. If the secretary is also treasurer he will perform the duties assigned to both.

## FORM B.

*For Rural Districts.*
[*Section 10,* (*2*)].

### ASSESSMENT NOTICE.

**of**

The School District No. of the N.W.T.
To
P.O.

You are hereby notified that your name appears on the assesment roll of the above named school district for the year 190 as the owner (*or* occupant) of and that you are assessed for acres of land.

You are further notified that if you object to this assessment you must appeal to the justice of the peace nearest to my residence within fifteen days after the posting of the assessment roll otherwise the assessment will stand.

Dated at
this day of
190

........................
*Secretary*
(*or Secretary Treasurer*).

Residence of Secretary (*or* Secretary Treasurer) Sec.
Tp. R. M. 1901, c. 30.

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## FORM C.

*For Ratepayers in*
*Rural Districts.*
(*Section 11.*)

### NOTICE OF APPEAL.

To.....................
*Justice of the Peace.*
.....................P.O.

You are hereby notified that I appeal from my assessment in the School District No,

of the N.W.T. for (*description of property and number of acres*) on the ground that
and that I wish to have this my appeal considered by you.

(*Signature*).................

Dated at
this day of
190

NOTE—A fee of $2 must accompany this notice or be delivered to the justice of the peace if the notice is handed to him. 1901, c. 30.

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## FORM D.

*For Rural Districts.*
[*Section 14 (3)*.]

### TAX NOTICE

of

The School District No. of the N.W.T.

To......................

......................P.O.

You are hereby notified that you are assessed on the assessment roll of the above named school district for the year 190 for acres of land the taxes on which at the rate of cents per acre amount to $ ; and you are further notified that the arrears of taxes due by you to the said district amount to $ and you are required to pay the same forthwith.

.........................
*Treasurer*
(or *Secretary Treasurer*).

Dated at
this day of
190

*For Village Districts.* (*Section 27.*)

## FORM E.

### ASSESSMENT ROLL

Of the School District No. of the North-West Territories for the year 190

| No. on roll | Name of Ratepayer (Enter name of owner and occupant, if any. If owner is unknown, enter "unknown.") | Post Office Address | Description of Real Property (Section, township, range, etc., lot, block, etc., buildings, etc.) | Value of Real Property | Description of Personal Property (Cattle, horses, etc., machinery, wagons, etc., book accounts, debts, income, etc., etc.) | Value of Personal Property | Total Value of Real and Personal Property | Date of Mailing Assessment Notice | Secretary's Initials (To be written after each notice mailed.) |
|---|---|---|---|---|---|---|---|---|---|
| 1 | (Owner) | | | $ c | | $ c | $ c | | |
| | (Occupant) | | | | | | | | |
| 2 | | | | | | | | | |
| | | | | | | | | | |

NOTE.—(1) The following affidavit should be inscribed upon the roll by the assessor before handing it to the secretary of the district (*see section* 33).

I, *A.B.*, assessor for the above named school district, make oath and say (*or* do solemnly affirm) that the statements contained in the foregoing assessment roll are correct to the best of my knowledge and belief.

Sworn before me at in the North-West Territories, this day of 190

..........................................................

*A J.P.; Com.; or N.P.*

(2) Upon receipt of the roll the Secretary should note thereon the date of filing in the following form (*see section* 34):

Filed this day of 190

..........................................................

*Secretary.*

## FORM F.

*For Village Districts.*
*(Section 36.)*

### NOTICE OF SITTING OF COURT OF REVISION

Notice is hereby given that the assessment roll for The S.D. No. of the N.W.T., has been completed and the same may be examined at and the board of trustees of the said school district will sit as a court of revision to hear assessment appeals at on the day of 190 , at the hour of o'clock .m., and no person who does not appear at the said time and place will be entitled to appeal from the decision of the said court of revision to a judge of the supreme court.

Dated at
this day of
190

.......................
*Secretary.*
1901, c. 30.

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## FORM G.

*For Village Districts.*
*(Section 37.)*

### ASSESSMENT NOTICE

of

The School District No. of the N.W.T.
To.......................
.......................P.O.

You are hereby notified that your name appears on the assessment roll of the above named school district for the year 19 as the owner (*or occupant*) of the following property (*give description of property*):
which is assessed at $

The board of trustees of the said district will sit as a court of revision (*mention day, hour and place at which court of revision is to be held*) and if you consider that you have been wrongly assessed as above stated you will have an opportunity to make a statement of your case before the said court.

Take notice that if you do not give notice in writing of appeal to the secretary of the board five days previous to the sitting of the court of revision and if you do not appear before the said court either in person or by agent you will not be entitled to appeal from its decision to a judge of the supreme court.

........................
*Secretary.*

Dated at
this day of 190

1901, c. 30.

## FORM H.

*For Ratepayers in*
*Village Districts.*
*(Section 38.)*

### NOTICE OF APPEAL

To......................
Secretary of School District.
..........................P.O.

You are hereby notified that I object to my assessment in The School District No. of the N.W.T., on the ground that
and that I wish to have my appeal considered by the court of revision.

(*Signature*)......................

Dated at
this day of
190

1901, c. 30.

## FORM I.

*For Village Districts.*
*(Section 39.)*

### NOTICE TO PARTY WHOSE ASSESSMENT IS APPEALED AGAINST.

To......................
..................P.O.

**Take notice that you are required to attend the court of revision for The S.D. No. of the N.W. T. to be held (*give day, hour and place of sitting of the court*) in the matter of the complaint by applicant that you are assessed too high (*or* too low *or* not a *bona fide* ratepayer *or as the case may be*).**

........................

*Secretary.*

1901, c. 30.

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## FORM J.

*For Ratepayers in*
*Village Districts.*
(*Section 41.*)

### Notice of Appeal.

*From decision of court of revision.*

To........................
Secretary School District.

You are hereby notified that I appeal to a judge of the supreme court from the decision of the court of revision of The School District No. of the N.W.T. **with respect to my assessment in the said district for (*give*** *description of property and assessed value.*) on the ground that (*state grounds of appeal.*)

(***Signature***)................

Dated at
this day of
. 190 . 1901, c. 30.

*For Village Districts.*
*(Section 43.)*

## FORM K.

### Collector's Roll.

Of the S.D. No. of the N.W.T. for the year 190

| No. on Roll | Name of Ratepayer (As shown on Assessment Roll. If owner is unknown enter "unknown.") | Post Office Address | Assessed Value of Real and Personal Property | Rate of Taxation on the Dollar | Amount of Taxes for Current Year | Arrears of Taxes Due | Total Taxes Due | Date of Mailing Tax Notice | Treasurer's Initials (To be written after each notice mailed.) | Payment of Taxes | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | | | | | | Amount | Date |
| | | | $ | (Mills) | | | | | | $ | |

## FORM L.

*For Village Districts.*
(*Section 44.*)

### Tax Notice.

The School District No. of the N.W.T.
To........................
....................P.O.

You are hereby notified that you are assessed on the assessment roll of the above named school district for the year 190 for property valued at $ the taxes on which at mills on the dollar amount to $ ; and you are further notified that the arrears of taxes due by you to the said district amount to $ and you are required to pay the same within thirty days after the date of this notice.

........................
Dated at *Treasurer.*
this day of 190 .

1901, c. 30.

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## FORM M.

*For Village Districts.*
(*Section 58.*)

### List of Lands.

in

The School District No. of the N.W.T. to be sold for taxes as authorised by *The School Assessment Ordinance.*

| Description of Property | Arrears of taxes | Cost of Advertising | Fee under Ordinance | Total charge against each parcel |
|---|---|---|---|---|
| (Give full and accurate description of property sufficient for registration.) | | | | |

Notice is hereby given that unless the arrears of taxes and costs as shown in the above list are sooner paid I will on the day of 190 , at the hour of o'clock .m. at (*give place of sale*) proceed to sell the lands shown in the above list in respect of which the said arrears and costs are payable.

Date of first insertion in newspaper.
190 .

.......................
*Treasurer.*
1901, c. 30.

## FORM N.

*For Village Districts.*
(*Section 58.*)

(*Notice for Insertion in Gazette.*)

### NOTICE.

Notice is hereby given that on the day of at the hour of at (*give name of place in particular*) there will be offered for sale by public auction in accordance with the terms and provisions of *The School Ordinance* providing for the sale of lands for arrears of school taxes certain lands situated in township range west of the meridian, being part of the lands forming (*give name of school district*) particulars regarding which lands may be found in the issues of (*give name, dates and place of issue of newspaper.*)

.......................
*Treasurer.*
P.O. address:
1901, c. 30.

## FORM O.

*For Village Districts.*
(*Section 69.*)

### TREASURER'S CERTIFICATE.

This is to certify that at a sale of land for taxes due to The School District No. of the N.W.T. held under the provisions of *The School Assessment Ordinance,* (*give name, address and occupation of purchaser*) purchased (*give description of property purchased*) for the sum of $ (*give purchase price*) and that the said (*give name of purchaser*) has paid thereon the sum of $ being amount of taxes and costs against the said land.

Upon payment of the balance of the purchase money and upon payment of a fee of $2.00 a transfer of the above mentioned land to the said (*name of purchaser*) or his assigns shall be executed by the treasurer of the said district on his or their demand within one month after the expiration of one year from the date of this certificate if the said land be not previously redeemed as provided in the said Ordinance.

.........................
*Treasurer.*

Dated at
this day of
190 .

1901, c. 30.

---

## FORM P.

*Village Districts.*
(*Section 77.*)

### TRANSFER OF LAND ON SALE FOR TAXES.

I, of being treasurer of The School District No. of the North-West Territories by virtue of authority to sell lands for arrears of taxes vested in me by warrant under the hand of the chairman of the board of trustees of the said school district and the seal of the said board and by *The School Assessment Ordinance* do hereby in consideration of the sum of dollars paid to me by of being the price for which the said land was sold at a sale by me on the day of 190 for arrears of taxes due on said land to the said school district transfer to the said all that piece of land being

In witness whereof I have hereunto set my hand and the seal of the said board of trustees this
day of 190 .

Signed by the above named in the presence of

1901, c. 30.

# SCHOOL ASSESSMENT.

## AMENDMENT.

### An Ordinance to amend Chapter 30 of the Ordinances of 1901, intituled "An Ordinance respecting Assessment and Taxation in School Districts."

1903, Sess. 1, c. 21
19 June, 1903

*[Assented to June 19, 1903.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** to **4.** * * * * * * * * * * *

Section 15 amended

**5.** Section 15 of the said Ordinance is hereby amended by adding thereto the following words "and shall bear interest at the rate of six per cent. per annum from the 31st day of December of the year in which they are imposed."

Interest on arrears

(2) This amendment shall apply in respect of taxes imposed before as well as after the passing of this Ordinance. 1903, Sess. 1, c. 21, s. 5.

Section 89 amended

**6.** Section 89 of the said Ordinance is hereby amended by adding thereto the following subsection:

Portion of town district outside to be deemed within town municipality

(3) In the event of a town district being situate partly within a town municipality and partly within a rural municipality for the purposes of this section the portion within the rural municipality shall be deemed to be within the town municipality.

(2) Any assessment heretofore made by any town municipality of any portion of the town district situate within a rural municipality shall be as valid as if made after the passing of this Ordinance. 1903, Sess. 1, c. 21, s. 6.

**7.** * * * * * * * * * * * *

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# SCHOOL GRANTS.

### An Ordinance to Regulate Public Aid to Schools.

1901, c. 31
12 June, 1901

*[Assented to June 12, 1901.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Short title**

**1.** This Ordinance may be cited as "*The School Grants Ordinance.*" 1901. c. 31. s. 1.

**Interpretation**

**2.** In this Ordinance unless the context otherwise requires:

1. The expression "assessable land" shall mean land in respect of the ownership or occupancy of which some person is assessed;

2. All words, names and expressions shall have the same meaning as is expressly or impliedly attached to them in *The School Ordinance.* 1901, c. 31, s. 2.

**Grants to schools**

**3.** In aid of schools organised and conducted under the provisions of *The School Ordinance* there shall be paid out of any legislative appropriation made for that purpose:

**Rural**

1. To rural districts an amount to be calculated as follows:

(*a*) To each district containing 6,400 acres or less of assessable land as shown by the last revised assessment roll of the district *$1.20* per day for each day school is kept open; to each district containing less than 6,400 acres as aforesaid one cent more per day for each 160 acres or fractional part thereof less than 6,400 acres; and to each district containing more than 6,400 acres as aforesaid one cent less per day for each additional 160 acres or fractional part thereof;

(*b*) To each district whose school is kept open more than 160 days in the year 40 cents per day for each additional day not exceeding 50;

(*c*) To each district engaging a teacher who holds a first class professional certificate under the regulations of the department 10 cents per day for each day such teacher is actually employed in the school;

(*d*) To each district whose school maintains a percentage of attendance as set forth in the following schedule the sum set opposite thereto for each day school is kept open:

SCHEDULE.

| | | | | | |
|---|---|---|---|---|---|
| A percentage | of from | 40 to 50 | inclusive | .. 5 | cents |
| " | " | 51 to 60 | " | ..10 | " |
| " | " | 61 to 70 | " | ..15 | " |
| " | " | 71 to 80 | " | ..20 | " |
| " | " | 81 to 100 | " | ..25 | " |

Village and town

2. To village and town districts an amount to be calculated as follows:

(*a*) To each district the sum of 90 cents per day for each day its school is kept open;

(*b*) To each district engaging a teacher who holds a first class professional certificate under the regulations of the department 10 cents per day for each day such teacher is actually employed in the school;

(*c*) To each district whose school maintains a percentage of attendance as set forth in the following schedule the sum set opposite thereto for each day school is kept open:

SCHEDULE

| | | | | | |
|---|---|---|---|---|---|
| A percentage of from | 50 to | 60 | inclusive.. | 5 | cents |
| " | " 61 to | 70 | " .. | 10 | " |
| " | " 71 to | 80 | " .. | 15 | " |
| " | " 81 to | 90 | " .. | 20 | " |
| " | " 91 to | 100 | " .. | 25 | " |

For equipment, etc.

3. To each district whose school attains a minimum grading on its efficiency in respect to grounds, buildings, equipment, government and progress a sum not exceeding 15 cents per day to be paid in proportion to such grading for each day school is kept open; and such grading shall be based upon the inspector's report or reports as prescribed by the regulations of the department;

For standards higher than V in town and villages

4. To each town or village district maintaining one or more rooms exclusively for pupils in standards above the fifth the sum of $75 per term provided the daily average attendance of pupils in such room or rooms for any such term classified in accordance with the regulations of the department is at least twenty:

Minimum attendance

Provided that no grant shall be paid to any district under the provisions of this section unless an average attendance of six is maintained in its school for the term immediately preceding the time when the payment of the grant may be due:

Minimum payment under clause 1 (a)

Provided further that the grant payable to any rural district under subsection (*a*) of clause 1 of this section shall not be less than 90 cents per day for each day the school is kept open:

Maximum number of days

Provided further that any and every amount payable to any district under this section shall not unless otherwise provided be payable for more than 210 days in any calendar year:

Each room to rank as a district

Provided further that in any district where more than one teacher is employed each room shall rank as a district under the provisions of clauses 1, 2 and 3 of this section when the average attendance of the whole school shall at least equal twenty pupils to each teacher employed:

**Not to exceed 70 per cent. of teacher's salary**

Provided further that if the sum of the grants payable to any district under clauses 1 or 2 of this section shall exceed 70 per cent. of the salary actually earned by the teacher or teachers employed in the district during the year the amount of the grant payable at the end of the second term of the year shall be reduced so that the total amount of the grant paid shall equal the said 70 per cent.:

**Payable at end of each term**

Provided further that payments may be made in respect of the amounts earned under clause 1 or clause 2 of this section at the end of the school terms ending on the thirtieth day of June and the thirty-first day of December in each year on receipt of the returns hereinafter provided and on receipt of the treasurer's bond and teacher's agreement as provided in *The School Ordinance*:

**Or end of school year**

Provided further that in case the school of any district is open only during a portion of the year payment may be made to such district in respect of the amounts earned under clause 1 or clause 2 of this section as soon as the school closes for the year on receipt of the returns, bond and agreement mentioned in the next preceding proviso:

**Payable to teacher for arrears of salary**

Provided further that when the return of the treasurer of any district as hereinafter provided shows that the district is indebted to any teacher or teachers the grant payable to such district under clause 1 or clause 2 of this section or such portion of it to the amount of such indebtedness shall be paid proportionately to such teacher or teachers:

**Under clause 4 if no inspection**

Provided further that the grant earned by any district under clause 4 of this section shall be paid to such district at the end of the school year and in case the school of any district is not inspected during the year the district shall be paid for such year such grant as it may be entitled to upon the basis of the grading its school attains on the first inspection in the following year. 1901, c. 31, s. 3, and 1904, c. 10, s. 1.

**Teacher attending convention**

**4.** Any district whose school has been closed on account of the absence of the teacher in attending a teacher's institute or convention held under the regulations of the department shall be entitled to all grants as if the school had been actually in operation during such period. 1901, c. 31, s. 4.

**School closed by reason of disease**

**5.** If in any district the schoool has been closed by the written order of a duly qualified medical practitioner on account of the prevalence within the district of any disease the Lieutenant Governor in Council may pay grants in respect of such days as the school has been closed but in no case shall such grants be paid for more than thirty teaching days in the calendar year. 1901, c. 31, s. 5.

Special grant

**6.** The Lieutenant Governor in Council may order the payment of a special grant to any school whether organised according to law or not. 1901, c. 31, s. 6.

Statements to be forwarded

**7.** The secretary, treasurer and teacher of every district shall at the end of each school term forward to the commissioner such statements respecting the school and district as are necessary to enable him to apportion the grants to which it may be entitled under the Ordinance and such statements shall be verified by declaration and shall be in form prescribed by the commissioner. 1901, c. 31, s. 7.

Computation of average

**8.** For the purpose of estimating the grant which may be earned by any school on account of the attendance of pupils the average attendance for any calendar month during which the school is kept open shall be calculated by dividing the aggregate days attendance for such month by the number of days school is kept open during such month; the percentage of attendance for any month school is kept open shall be calculated by dividing the average attendance for such month by the number of pupils in actual attendance during such month; and the percentage of attendance for any term shall be calculated by dividing the sum of the monthly percentages of attendance by the number of such monthly percentages of attendance. 1901, c. 31, s. 8.

Purchase of school library out of grant under clause 3

**9.** The board of every district receiving a grant under clause 3 of section 3 hereof shall expend one-half of the amount of such grant received in each and every year on the purchase of books for a school library and such books shall be selected from a list authorised and furnished by the department:

*Provided that on the recommendation of an inspector the commissioner of education may authorise the board of any district to expend any portion of such grant on the purchase of equipment and apparatus in lieu of books for a school library.* 1901, c. 31, s. 9, and 1904, c. 10, s. 2.

Grants for cases under section 165 of School Ordinance

**10.** In all cases where two or more districts have entered into an agreement as provided in section 165 of *The School Ordinance* there shall be paid at the end of each school term from and out of any moneys appropriated by the Legislative Assembly for school purposes:

1. To every district providing the means of conveyance for children from one district to another the sum of 60 cents per diem for each day upon which such conveyance is provided in accordance with the regulations of the department;

2. To every district agreeing as aforesaid to educate the children of one or more districts the sum of 4 cents per diem for each pupil in average daily attendance who has been conveyed to and from the school house in such district or educated therein in accordance with the regulations of the department:

Provided that the total number of days in each year for which such grants may become payable shall not exceed 210:

Provided further that in case the number of children conveyed from one district to another in accordance with the terms of the agreement falls below an average of six for any term the grant payable under subclause 1 of section 10 hereof shall be paid in the proportion that the average number of children conveyed for the term bears to six:

Provided further that the total amount of the grant which shall be payable under subclause 2 of section 10 hereof shall not exceed for any term the amount of 40 cents per diem unless it is satisfactorily shown that the presence of such children necessitate the employment of one or more additional teachers in which case the total amount of the grant thus earned shall be paid. 1901, c. 31, s. 10.

**Commencement**

**11.** This Ordinance shall come into force on the first day of January, 1902. 1901, c. 31, s. 11.

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# SECURITY BY PUBLIC OFFICERS.

C.O. 1898, c. 13
15 March, 1899

## An Ordinance respecting Security to be given by Public Officers.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Persons to furnish security**

**1.** Every person appointed to any office or employment by or under the government of the Territories or to any office or employment of public trust or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money and who by reason thereof is required to give security shall within one month after notice of such appointment if he is then in the Territories or within three months if he is then absent from the Territories (unless he sooner arrives in the Territories, and then within one month after such arrival) give and enter into a bond or bonds or other security or securities in such sum and with such sufficient sureties as are

Time and manner of giving security

approved of by the Lieutenant Governor in Council or by such other officer or person as they may appoint for the due performance of the trust reposed in him and for his duly accounting for all public moneys entrusted to him or placed under his control. C.O. 13, s. 1.

Bond solely or with sureties

**2.** Whenever any person is required under this Ordinance or by any order of the Lieutenant Governor in Council to give bond or security for the due performance of the duties of any office to which he has been or is about to be appointed, such person may either solely or together with any sureties as the case may be give such securities by bond in the form A in the schedule to this Ordinance or to the like effect. C.O. 13, s. 2.

Short form

**3.** Whenever a bond made according to said form A or any other bond (expressed to be made in pursuance of this Ordinance or referring thereto) contains the form of words set forth in column one of the said form, such bond shall be construed and have the same effect as if it contained the form of words set forth in column two of the said form. C.O. 13, s. 3.

Adaptation of form

**4.** Any recitals may be inserted prior to the condition of the bond and the feminine gender may be substituted for the masculine or the plural number for the singular or *vice versa* in any form in the first column of the said form and corresponding changes shall in such case be taken to be made in the corresponding form in the second column; and any express exceptions or qualifications or additions made, introduced or annexed in the first column shall be taken to be made in the corresponding form in the second column. C.O. 13, s. 4.

Irregularities not to affect liability

**5.** Any bond or part of a bond which does not take effect by virtue of the three sections of this Ordinance next preceding shall nevertheless be as effectual to bind the obligors therein so far as the rules of law and equity will permit as if the said sections had not been passed. C. O. 13, s. 5.

Sureties to justify

Attestation

**6.** Every surety in any such bond shall make the affidavit in the form B in the schedule to this Ordinance or to the effect thereof; and every such bond or security shall be proved as to the due execution and delivery of the same by an affidavit of the attesting witness; and every such bond or security with the several affidavits thereunto annexed shall be registered in the office of the Territorial secretary and the original bond or security and the affidavits thereunto annexed shall be retained in the said office and such bond or security shall be registered

**Registration of bond**

within one month after being entered into or given if the person on whose behalf it is entered into or given resides or is in the Territories and if he is absent from the Territories then within three months after being entered into or given unless such person arrives sooner in the Territories and then within one month after such arrival.

**Register of bonds**

(2) The Territorial secretary shall for the purpose of so registering bonds or securities provide a separate register book every page of which and every bond or security recorded therein shall be numbered and the day of the month and year when every such bond or security is registered shall be entered in the margin of the said register book and in the margin of the bond or security.

**List of principals and sureties**

(3) The Territorial secretary shall keep separate alphabetical lists of the names of the principals and of the names of the sureties mentioned in such bonds or securities with reference to the book, page or number where the bonds or securities containing such names are to be found and shall enter and register the said bonds or securities in the same order of time in which they respectively come to his hands.

**Certified copies**

(4) Copies of all bonds or securities registered as aforesaid certified by the Territorial secretary shall be received in all courts of civil jurisdiction in the Territories as *prima facie* evidence of the due execution and the contents thereof ; and for every such copy certified as aforesaid a fee of one dollar shall be payable to the general revenue fund. C.O. 13, s. 6.

**Failure to give security**

7. If any person who is required to give, register and deposit any such bond or security as aforesaid neglects to do so, he shall be liable to forfeit the appointment in respect whereof such security should have been given and such appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void under this Ordinance; but such voidance shall not annul or make void any act or other matter or thing done by such person during the time he actually held such appointment.

**Exception where security lost**

(2) No such forfeiture shall take place by reason of any such bond or security not being registered or deposited if the proper sureties have been given and the proper bond made out when the failure of registry and deposit have arisen from the loss of such bond or security in the transmission thereof from a distance; but in every such case a new bond or security specifying the reason of such delay shall be made out and signed, registered and deposited within the like period after the person giving such security receives notice of the loss (regard being

had to the place where he then is) as is required by this Ordinance for the registry thereof if such loss had not occurred. C.O. 13, s. 7.

Death, insolvency or nonresidence of surety

**8.** Every such person as aforesaid who has given any bond or other security with surety or sureties for the due execution of the trusts reposed in him or for duly accounting for public moneys coming to his hands shall give notice in writing to the Territorial secretary of the death, bankruptcy, insolvency or residence out of the Territories of any surety or person bound for or with him in any such security.

Default in giving notice, penalty

(2) Such notice shall be given within one month after the fact comes to the knowledge of such person as aforesaid; and any person who neglects to give such notice within such period shall forfeit to the use of the Territories one fourth part of the sum for which the surety so dead, bankrupt, insolvent or resident out of the Territories became security recoverable in any civil court at the suit of the attorney general.

Omission to furnish new security

(3) Every such person who (upon the death, bankruptcy, insolvency or residence out of the Territories of any surety) neglects to give the security of another surety to be approved in like manner as such surety dying or becoming bankrupt, insolvent or resident out of the Territories was approved, within such period from his having given notice of the death bankruptcy or insolvency or residence out of the Territories of the former surety as is by this Ordinance limited for giving, registering and depositing the original security or neglects to register and deposit the bond or security of such new surety within such period from his having given the security of such new surety as is by this Ordinance limited for the registering and depositing of the original bond or security (the same regard being had to the place in which the person then is) shall be liable to forfeit his appointment of office, employment or commission in respect whereof such new security ought to have been given and such new bond or security registered and deposited as aforesaid; and his appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void in like manner and under and subject to such provisions as aforesaid. C.O. 13. s. 8.

Withdrawal of surety

**9.** When any person has become security for the due accounting for public moneys or the proper performance of any public duty by any such person as aforesaid, such surety (when no longer disposed to continue such responsibility) may give notice thereof to his principal and also to the Territorial secretary and all accruing responsibility on the part of such person as such surety shall cease at the expiration of three months from the receipt of the last of such notices or upon the acceptance by the Lieutenant Governor in Council of the security of another surety whichever first happens; and the principal shall (within one month from the receipt of the last of such notices) give the security of another surety and register and deposit the bond of such new surety or in default of so doing shall be liable to forfeit and be deprived of the appointment in respect whereof such new security ought to have been given and deposited as aforesaid; and his appointment shall be void from and after the time when the Lieutenant Governor in Council declares the same to be void in like manner and under and subject to such provisions as aforesaid. C. O. 13, s. 9.

**Acceptance of security after proper time**

**10.** The Lieutenant Governor in Council may approve of the security given by any public officer although perfected after the time limited by this Ordinance; and in such case the office shall be deemed not to have been voided by such default but to have remained and to remain in full force and effect; and no act of any such public officer shall by such default be void or voidable. C. O. 13, s. 10.

**Securities executed at different times Registration**

**11.** When the securities of the principal and sureties have been executed at different times (whether they were taken in one and the same bond, deed or other instrument or in different ones), the period limited for registering and depositing such securities shall be estimated from the time of execution thereof by the person who was the last to execute the bond, deed or other instrument or the last bond, deed or other instrument as the case may be. C. O. 13, s. 11.

**Irregularities in providing security**

**12.** No neglect, omission or irregularity in giving or receiving the bonds or other securities or in registering the same within the periods or in the manner prescribed by this Ordinance shall vacate or make void any such bond or security or discharge any surety from the obligations thereof. C. O. 13, s. 12.

**Registration after time**

**13.** All bonds or other securities hereby required to be registered and deposited shall be registered and deposited by the proper officer notwithstanding the period prescribed for registering and depositing the same has expired; but no such registering and depositing of any such bond or other security shall be deemed to waive any forfeiture or penalty or shall exempt the person on whose behalf the same is registered and deposited from any forfeiture or penalty under any of the provisions of this Ordinance. C. O. 13, s. 13.

Guarantee company's bond

**14.** Whenever any public officer is required to give security for the performance of his duties or other security of a like nature and whether such security inures for the benefit of the Territories or of any person injured by the default or misconduct of such officer, the Lieutenant Governor in Council may direct that the bond or policy of guarantee of any incorporated joint stock company empowered to grant guarantees, bonds, covenants or policies for the integrity and faithful accounting of public officers or other like purposes may be accepted as such security upon such terms as may be determined by the Lieutenant Governor in Council; and the provisions of law with reference to the legal effect of such securities when given by individuals, to the filing thereof and to the mode of proceeding thereon shall apply to the security given by every such company. C. O. 13, s. 14.

Interim receipt

**15.** The interim receipt of such company may be accepted in lieu of the formal security but the formal security shall be completed within four months from the date of such receipt. C. O. 13, s. 15.

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## SCHEDULE.

### FORM A.

Know all men by these presents that we, of in the North-West Territories of the Dominion of Canada (hereinafter called "the principal") and of in the said Territories and of in the said Territories (hereinafter called "the sureties"), are respectively held and firmly bound unto our Sovereign Lady the Queen, her heirs and successors, in the respective penal sums following, that is to say: the principal in the sum of dollars of lawful money of Canada, and each of the sureties in a sum of dollars of like lawful money, to be paid to our said Sovereign Lady the Queen, her heirs and successors, for which said respective payments well and faithfully to be made we severally,—and not jointly or each for the other,—bind ourselves, and our respective heirs, executors and administrators, firmly by these presents, sealed with our respective seals.

Dated this day of in the year of our Lord one thousand and in the year of her Majesty's reign.

Whereas the principal having been appointed to the office or employment of is required by law to give security to the Crown for the due performance of the duties appertaining thereto, and the sureties have consented to become his sureties for such his performance of the said duties, and this bond is given in pursuance of *An Ordinance respecting Security to be given by Public Officers.*

| COLUMN ONE. | COLUMN TWO. |
|---|---|
| Now the condition of this obligation is that if the principal faithfuly discharges the duties of the said office and duly accounts for all moneys and property which come into his custody by virtue of the said office, this obligation shall be void.<br>Signed, sealed and delivered in the presence of } | Now the condition of the above obligation is such that if the principal so appointed to the said office or employment as aforesaid, do and shall from time to time and at all times, so long as he shall hold the said office or employment or be and remain charged with the actual discharge of the duties appertaining thereto, or any of them, faithfully, honestly and diligently do, perform, fulfil and discharge all and every such duties, in every respect in accordance with the laws now in force in that behalf, as also all and singular such other duties as by competent authority in that behalf now are or hereafter shall or may be attached to the said office or employment, or imposed upon or required to be performed by the incumbent for the time being of the said office or employment whether such last mentioned duties are regulated or imposed by |

any Ordinance or Ordinances of the Territories heretofore passed or that may hereafter be passed by the Legislative Assembly of the said Territories or by any order or regulations made under any such Ordinance, and whether such duties are extended, increased or otherwise varied or altered by any such Ordinance or Ordinances so to be passed, or by any such Order or regulations as aforesaid, or are regulated or imposed, or are extended, increased or otherwise varied or altered by competent authority, and shall duly account for and pay over all such moneys or securities for money or valuable securities or property as shall come into his hands, custody or control by virtue of or in consequence of his holding the said office;

And further, if the principal, upon his removal from, or his resignation of the said office or employment, or if in the event of his death during his tenure of the said office or employment, his legal representatives, or some or one of them, do and shall quietly surrender and deliver up the same, and all the moneys, securities for money, valuable securities, or property, books, papers, instruments, instructions, maps, plans, letters and writings, and other things whatever, which then may be, or ought to be, in his possession, custody or keeping, by virtue of or in consequence of his holding the said office, or relating or in anywise appertaining thereto, then the above obligation shall be null and void and of no effect: otherwise the same shall be and remain in full force and virtue.

## AFFIDAVITS TO BE ANNEXED TO THE BOND.

### AFFIDAVIT OF WITNESS.

CANADA:
North-West Territories, } I, *C.D.*, of
To wit:

in the North-West Territories, make oath and say that I was personally present, and did see
the obligors in the above bond or writing obligatory named, duly execute the said instrument by signing, sealing and as their respective acts and deeds, delivering the same, and that I am a subscribing witness to such execution.

Sworn before me at
in the said Territories, this
day of A.D. } (*Signature*) *C.D.*
one thousand ,
(*Signature*) *A.B.*,

(*A separate affidavit in this form shall be made by a witness to the execution of each obligor, if the same person does not witness the execution by all of them.*)

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## FORM B.

CANADA: } I, *A.B.*, one of the sureties in the
North-West Territories, } annexed bond named make oath and
To wit: } say, as follows:

1. I am seized and possessed to my own use of real (*or* real and personal) estate at in the North-West Territories of the actual value of $ over and above all charges upon or incumbrances affecting the same.

2. My post office address is as follows:

Sworn before me at
this day of A.D. one thousand
(*Signature*) *C.D.*
(*Signature*) *A.B.*

(*A separate affidavit to be made by each surety.*)

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INDORSMENT ON BOND.

The indorsement on the bond shall show: 1. The date of its receipt by the Territorial Secretary. 2. The names of the principal and sureties, and the amount for which each is bound. 3. The date of the bond. 4. The office for the faithful discharge of the duties whereof it is given. 5. The registration number. 6. The folio on which it is entered in the register of bonds. C. O. c, 13.

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# SEDUCTION.

## An Ordinance respecting the Action for Seduction.

**1903, Sess. 2, c. 8**
**21 Nov., 1903**

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**Action when maintainable by father or mother**

**1.** The father or, in case of his death, the mother (whether she remains a widow or remarries) of any unmarried female who has been seduced and for whose seduction the father or mother could maintain an action in case such unmarried female was at the time dwelling under his or her protection may maintain an action for the seduction, notwithstanding such unmarried female was at the time of her seduction serving or residing with another person upon hire or otherwise. 1903, Sess. 2, c. 8, s. 1.

**Proof of service dispensed with**

**2.** Upon the trial of an action for seduction brought by the father or mother it shall not be necessary to prove any act of service performed by the party seduced but the same shall in all cases be presumed and no evidence shall be received to the contrary; but in case the father or mother of the female

**When action maintainable by master, etc.**

seduced had before the seduction abandoned her and refused to provide for and retain her as an inmate then any other person who might at common law have maintained an action for the seduction may maintain such action. 1903, Sess. 2,

**Where father or mother not resident in the Territories**

3. Any person other than the father or mother who by reason of the relation of master or otherwise would have been entitled at common law to maintain an action for the seduction of an unmarried female may still maintain such action if the father or mother be not resident in the Territories at the time of the birth of the child which is born in consequence of the seduction or being resident therein does not bring an action for the seduction within six months from the birth of the child. 1903, Sess. 2, c. 8, s. 3.

**Action may be brought by party seduced in her own name**

4. Notwithstanding anything in this Ordinance an action for seduction may be maintained by any unmarried female who has been seduced, in her own name, in the same manner as an action for any other tort and in any such action she shall be entitled to such damages as may be awarded. 1903, Sess. 2, c. 8, s. 4.

## SERVANTS.

*See* MASTERS AND SERVANTS.

## SHEEP.

*See* PROTECTION OF ANIMALS FROM DOGS.

# SHERIFFS AND DEPUTY SHERIFFS.

**C.O. 1898, c. 23**
**15 March, 1899**

## An Ordinance respecting Sheriffs and Deputy Sheriffs.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### OFFICE HOURS.

**Sheriff's office hours**

1. It shall be the duty of every sheriff to keep his office open between the hours of ten in the forenoon and four in the afternoon on all days except Sundays and holidays and except Saturdays when the same may be closed at one o'clock in the afternoon. C. O. 23, s. 1.

## BOOKS, RECORDS AND PROCESS.

**2.** Every sheriff shall keep a separate book in which he shall enter from day to day all fees and emoluments received by him in virtue of his office showing separately the fees received for each service performed and such further facts and information as the Lieutenant Governor may from time to time require. C. O. 23, s. 2.

**Fees received to be recorded**

**3.** Every sheriff shall on or before the fifteenth day of January in each year make up a statement in duplicate from such book and return the same to the attorney general verified under oath; and such statement shall set forth the total amount of fees which have been received during the twelve months ended on the thirty-first day of December next preceding. C.O. 23, s. 3.

**Annual statement of fees**

**4.** The sheriff shall keep in his office open to the inspection of any person the following books, namely:

**Books open to public inspection**

(*a*) Process books in which shall be entered a memorandum of every process other than writs of execution or writs in the nature of writs of execution received by the sheriff, the court out of which the same issued, the date of the receipt, the nature of the process, the names of the parties thereto, the advocate by whom issued, the date of the return and the nature of the return made thereto or what was thereunder or therewith done respectively;

(*b*) Execution books for goods and lands respectively in which shall be entered a memorandum of every writ of execution or writ in the nature of a writ of execution, the court out of which the same issued, the names of the parties thereto, the advocate by whom issued, the date of return and the nature of the return made thereto or what was done thereunder or therewith; and

(*c*) A cash book in which shall be entered all cash received or paid away by the sheriff in his official capacity or in connection with his office for any service whatever—for fees, poundage, service of process and papers, attendance at court, moneys levied under execution or under writs in the nature of writs of execution or otherwise, the date of the receipt or payment and the cause, matter or service in which or on account of which the same was received or paid away.

(2) And a seal of office. C. O. 23, s. 4.

**Supplying books and seal**

**5.** The said books and seal shall be supplied out of the general revenue fund of the Territories. C. O. 23, s. 5.

**Books, records, etc., to be property of Government**

**Disposition on vacancy of office**

**6.** All books, accounts, records, papers, writs, warrants, processes, moneys and other matters and things in the possession or under the control of any sheriff by virtue of or appertaining to his office as sheriff shall be the property of the government of the Territories and the same and every of them shall immediately upon the resignation, removal from office or death of any such sheriff be, by the party in whose possession or control they may come or happen to be, handed over to and taken possession of by the successor in office of such sheriff or such person as the judge usually exercising jurisdiction in the judicial district may appoint to receive the same. C. O. 23, s. 6.

**Possession of books, etc., after vacancy**

**Refusal to give up possession**

**7.** No person except the successor in office of the sheriff so resigning, being removed or dying, or the person so to be appointed by the judge as aforesaid shall take, have or hold any such books, accounts, records, papers, writs, warrants, process, moneys, or other matters or things; and any person having or holding any of the matters aforesaid shall forthwith on demand deliver over the same and every of them to the said succeeding sheriff or to the person so to be appointed as aforesaid; and upon any such person neglecting or refusing so to do on conviction thereof before a judge of the supreme court he shall be liable to pay a penalty not exceeding $100. C. O. 23, s. 7.

**Ex-sheriff to have access to books**

**8.** The sheriff after resigning office or removal from office, or his heirs, executors or administrators shall or may at any and at all time or times thereafter have the right and be at liberty to have access to search and examine into any or all accounts, books, papers, warrants and processes of whatever kind and all other matters or things which were formerly in the possession of him the said sheriff before his resignation or removal and which at the time of making or requiring to make such search or examination are in the possession or control of the succeeding sheriff free of all costs, charges and expenses. C. O. 23, s. 8.

### VACANCY IN OFFICE PENDING EXECUTION OF WRIT.

**Sale of lands by sheriff Procedure when vacancy occurs**

**9.** In case of the death, resignation or removal of the sheriff, or of any deputy where there is no sheriff, after he has made a sale of lands but before he has made a transfer of the same to the purchaser such transfer shall be made to the purchaser by the sheriff or the deputy sheriff who is in office acting as sheriff as aforesaid at the time when the deed of conveyance is made. C. O. 23, s. 9.

Sheriff vacating, successor to continue process

**10.** If the sheriff goes out of office during the currency of any writ of execution against lands and before the sale, such writ shall be executed and the sale and transfer of the lands be made by his successor in office and not by the former sheriff. C. O. 23, s. 10.

### MISFEASANCE OR DEFAULT OF SHERIFF, LIABILITY OF SURETIES.

Liability of sureties

**11.** The sureties of the sheriff shall be liable to indemnify the party or parties to any legal proceedings against any omission or default of the sheriff in not paying over moneys received by him and against any damage sustained by any such party or parties in consequence of the sheriff's wilful or neglectful misconduct in his office and the sheriff shall be joint defendant in any action to be brought upon the covenant or security given by the sheriff. C. O. 23, s. 11.

Default of sheriff

Action on security

**12.** Any person sustaining any damage by reason of any such default or misconduct of any sheriff may bring and maintain an action upon the said covenant or security for such default or misconduct and such action shall not be barred by reason of any prior recovery by the same party upon the covenant or security or of any judgment rendered for the defendant in any prior action upon the same covenant or security or by reason of any other action being then depending upon the same either at the suit of the same plaintiff or of any other party for any other distinct cause of action. C. O. 23, s. 12.

Limitation of surety's liability

**13.** If upon the trial of any action upon any such covenant or security it is made to appear that the plaintiff is entitled to recover and that the amount which such surety has paid or become liable to pay as hereinafter mentioned is not equal to the full amount for which he became surety the court after deducting from such full amount the sums which he has so paid or become liable to pay as aforesaid shall render judgment against him for any sum not exceeding the balance of the sum for which he became surety. C. O. 23, s. 13.

When surety discharged from liability

**14.** Where any such surety actually and *bona fide* and of his own proper moneys and effects has paid or become liable by virtue of a judgment or judgments recovered against him upon his said covenant or security to pay an amount equal to the amount specified in the said covenant or security for which he became surety such covenant or security shall as to him be deemed to be discharged and satisfied and no other or further sum shall be recovered against him. C. O. 23, s. 14.

Stay of proceedings against surety

**15.** It shall be competent for the supreme court or a judge thereof upon proof to the satisfaction of the court or judge of such payment or liability in a summary manner and at any stage of the cause by stay of proceedings or otherwise to prevent the recovery against any such surety of any further sum than the amount specified in his covenant or security and for which he may have become surety. C.O. 23, s. 15.

When judgment recovered upon security levy to be on sheriff's goods first

**16.** Upon every writ of execution under a judgment recovered on such covenant or security the plaintiff or his advocate shall by an indorsement on the writ direct the coroner or other officer charged with the execution of such writ to levy the amount thereof upon the goods and chattels of the sheriff in the first place and in default of goods and chattels of the sheriff to satisfy the amount then to levy the same or the residue thereof on the goods and chattels of the other defendant or defendants in such writ and so in like manner with any writ against lands and tenements upon a judgment on any such covenant or security. C.O. 23, s. 16.

Sheriff liable until successor takes office

**17.** Notwithstanding a sheriff may have forfeited his office and become liable to be removed therefrom the liability of himself and his sureties shall remain until a new sheriff has been appointed and sworn into office. C.O. 23, s. 17.

### OFFICERS NOT TO PURCHASE AT EXECUTION SALES.

Sheriff, etc., may not purchase under execution

**18.** No sheriff, deputy sheriff, bailiff or constable shall directly or indirectly purchase any goods or chattels, lands or tenements by him exposed to sale under execution. C.O. 23, s. 18.

### MISCONDUCT OF BAILIFF OR CONSTABLE.

Liability for misconduct in execution of writ

**19.** If any bailiff or constable entrusted with the execution of any writ, warrant, process, mesne or final, wilfully misconducts himself in the execution of the same or wilfully makes any false return to such writ, warrant or process, unless by the consent of the party in whose favour the process issued, he shall answer in damages to any party aggrieved by such misconduct or false return. C. O. 23, s. 19.

### CUSTODY OF WRITS, PROCESS, ETC.

**Restoration of documents, etc., to sheriff**

**20.** Every deputy sheriff, bailiff or other sheriff's officer or clerk entrusted with the custody of any writ or process or of any book, paper or document belonging to the said sheriff or his office shall upon demand upon him by such sheriff restore and return such writ, process, book, paper or document to the custody of the said sheriff and in case of any neglect or refusal to return or restore the same as aforesaid the party so neglecting or refusing may be required by an order of the supreme court or any judge of such court to return and restore such writ, process, book, paper or document to such sheriff and if he disobeys such order may be further proceeded against by attachment as in other cases of contumacy to orders or rules of court. C.O. 23, s. 20.

**Enforcement of return**

**Sheriff's officer to deliver process to sheriff when required**

**21.** If any deputy sheriff, bailiff or sheriff's officer shall have in his possession, custody or control any writ of summons, *fieri facias* or other writ or any bench warrant or process whatsoever and shall upon demand made by the sheriff from whom the same may have been received or his successor in office or by any other party entitled to the possession of the same neglect or refuse to deliver up the same such sheriff or his successor in office or the party entitled to the possession of the same may proceed by summons and order before any judge having jurisdiction in the court out of which such writ or process issued to compel the production thereof; which order may be enforced in the same manner as like orders for the return of writs against sheriffs and with or without costs or be discharged with costs against the party applying in the discretion of the judge aforesaid. C.O. 23, s. 21.

### VACANCY IN OFFICE OF SHERIFF, DEPUTY TO ACT.

**22.** * * * * * * * * *

### SECURITIES AND OATHS OF OFFICE.

**Copy of security to be filed**

**23.** Every sheriff before entering upon the duties of his office and if after entering upon his duties a new security is substituted for any previously given shall file in the office of the Territorial secretary a copy, certified as such by the Secretary of State for Canada, of the security required by and given under *The North-West Territories Act* or of such substituted security. C. O. 23, s. 23.

**Security may be sued upon**

**24.** Such security shall be available to and may be sued upon by any person suffering damages by the default, breach of duty or misconduct of such sheriff C.O. 23, s. 24.

**Certified copy of security evidence**

**25.** A copy of such security purporting to be such, certified by the Territorial secretary, shall be received in all courts as *prima facie* evidence of the due execution and contents thereof without further proof. C.O. 23, s. 25.

**Oath of office**

**26.** Every sheriff and every deputy sheriff appointed under the provisions of any Ordinance of the Territories in that behalf shall upon appointment and before entering upon the duties of his office take the oath of office in the form in the schedule to this Ordinance and also the oath of allegiance.

(2) All such oaths shall be filed in the office of the clerk of the executive council immediately after being taken. C.O. 23, s. 26.

DEPUTY SHERIFFS.

**Deputy sheriffs to be appointed**

**27.** The sheriffs of the several judicial districts shall respectively from time to time appoint a deputy at Edmonton, Lethbridge, Medicine Hat, Battleford, Moose Jaw, Yorkton; *and at such other place or places as the Lieutenant Governor in Council shall from time to time designate;* and such deputy sheriffs shall have and perform the powers, duties and obligations hereinafter mentioned. C.O. 23, s. 27, and 1900, c. 7, s. 2.

**Districts defined**

**28.** For the purposes hereinafter mentioned the respective districts of the deputy sheriffs at Edmonton, Medicine Hat, Battleford, Moose Jaw and Yorkton shall be the same respectively as the districts of the deputy clerks at the said places respectively; and the district of the deputy sheriff at Lethbridge shall be that portion of the electoral district of Lethbridge lying to the east of the dividing line between ranges twenty-seven and twenty-eight west of the fourth initial meridian:

Provided that any business pending shall be completed in the office of the sheriff or deputy sheriff respectively in which it was begun or is pending.

**Lieutenant Governor may establish and alter districts**

(2) *The Lieutenant Governor in Council shall have power to alter the boundaries of any district of a deputy sheriff now or hereafter established by adding thereto or taking therefrom and to establish new districts.* C. O. 23, s. 28, and 1900, c. 7, s. 3.

Powers and duties of deputy

**29.** All the powers, duties and obligations which may now be exercised or performed by the sheriff of any one of the said judicial districts may hereafter so far as they are to be exercised or performed within the districts of any one of the said deputy sheriffs or as they affect property and person in the districts of any one of such deputy sheriffs be exercised and performed by such deputy sheriffs respectively and in respect of mesne and final process intended to affect real or personal property situate within the districts of any one of the said deputy sheriffs such deputy sheriff shall have and perform all the powers, duties and obligations of the sheriff of his judicial district and such process shall for the purpose of binding such property be placed in the hands of such deputy sheriff and need not be placed in the hands of the sheriff of his judicial district and such deputy sheriffs shall have and use a duplicate of the seal of the sheriffs of their respective judicial districts and keep such books as are kept by sheriffs. C.O. 23, s. 29.

Deputy to give security

**30.** Each deputy sheriff before entering on his duties shall give security to the Lieutenant Governor to the satisfaction of the Lieutenant Governor in Council in the sum of $2,000 for the due performance of the duties and obligations of his said office and for the due payment over to the persons entitled thereto of all moneys received by him by virtue of his said office and any person sustaining damage by reason of the nonperformance or improper or undue performance of such duties or obligations by reason of the nonpayment over of such moneys shall have and possess a right of action against such deputy sheriff and his sureties upon such security for the amount of such damages. C. O. 23, s. 30.

Security may be proceeded upon

Sheriff not responsible for deputy

**31.** The respective sheriffs for the said judicial districts of Northern Alberta, Southern Alberta, Saskatchewan, Western Assiniboia and Eastern Assiniboia shall not after the giving of such security by their said respective deputies be answerable or accountable for the acts of nonperformance or improper performance of the duties and obligations of their respective deputies. C. O. 23, s. 31.

Sheriff or deputy not to act as advocate

**32.** No sheriff or deputy sheriff while holding office shall practise as an advocate of the Territories or be a member of any firm of advocates practising in the Territories. C. O. 23, s. 32.

## SCHEDULE.

### SHERIFF'S OATH OF OFFICE.

I, , do swear that I will truly and faithfully perform the several duties of sheriff of the judicial district to which I have been appointed without fear, favour or malice. So help me God.

Sworn before me at
in the North-West Territories,
this day of 1 .

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# SLANDER OF WOMEN.

C.O. 1898, c. 30
15 March, 1899

## An Ordinance to amend the Law relating to Slander.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Slander of females

Special damage

**1.** In any action of slander founded on words spoken of the plaintiff imputing unchastity, adultery or profligacy to a female, whether married or unmarried, it shall not be necessary to allege or prove any special damage but such words shall be actionable *per se*. C. O. 30, s. 1.

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# SOCIETIES.

*See* ASSOCIATIONS.
BENEVOLENT AND OTHER SOCIETIES.
MECHANICS AND LITERARY INSTITUTES.
RELIGIOUS SOCIETIES LANDS.

# SOLEMNISATION OF MARRIAGE.

*See* MARRIAGE.

# STALLIONS AND BULLS.

*See* ENTIRE ANIMALS.

# STEAM BOILERS.

## An Ordinance respecting Steam Boilers.

1901, c. 7
12 June, 1901

[*Assented to June 12, 1901* ]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Steam Boilers Ordinance 1901."* 1901, c. 7, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires: Interpretation

1. The expression "boiler" does not include boilers used for heating water for domestic purposes or generating steam solely for heating buildings or railway locomotive or steamboat boilers but means and includes all other steam boilers and every part thereof or thing connected therewith and all apparatus and things attached to or used in connection with any such boiler; "Boiler"

2. The expression "owner" means and includes any person, firm or corporation the owner or lessee of a boiler and the manager or other head officer in charge of the business of any such firm or corporation; "Owner"

3. The expression "engineer" means any person having charge of or operating a steam boiler and the steam engine connected therewith under the provisions of this Ordinance; "Engineer"

4. The expression "person" means any male over eighteen years of age; "Person"

5. The expression "commissioner" means the commissioner of public works of the Territories; "Commissioner"

6. The expression "inspector" means an inspector of steam boilers appointed under the provisions of this Ordinance; "Inspector"

7. The expression "inspection certificate" means the annual certificate of the inspection of any boiler issued by an inspector; "Inspection certificate"

8. The expression "certificate" means the provisional or final certificate of qualification issued to any engineer under the provisions of this Ordinance. 1901, c. 7, s. 2. "Certificate"

## INSPECTIONS.

Appointment of inspectors

**3.** The Lieutenant Governor in Council may appoint an inspector or inspectors of steam boilers for the Territories for the purpose of carrying out the provisions of this Ordinance and may fix the remuneration to be paid such inspector or inspectors. 1901, c. 7, s. 3.

Inspectors to have no interest in sale of boilers or steam machinery

**4.** No person holding the office of inspector under the provisions of this Ordinance shall be either directly or indirectly interested in the sale of boilers or steam machinery. 1901, c. 7, s. 4.

Oath of office to be taken

**5.** Every inspector appointed under the provisions of this Ordinance shall before entering upon the performance of his duties take and subscribe an oath that he will faithfully and impartially perform the duties of his office. 1901, c. 7, s. 5.

Inspectors may enter premises

**6.** For the purpose of seeing that the provisions of this Ordinance are complied with any of the inspectors appointed under this Ordinance may at any reasonable hour enter upon any lands or into any building where any steam boiler is operated. 1901, c. 7, s. 6.

Obstructing inspector

**7.** Any person interfering with or obstructing any inspector in the performance of his duties under this Ordinance shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $50. 1901, c. 7, s. 7.

Record to be kept

**8.** Every inspector shall keep a true record of all boilers inspected and all repairs ordered by him, of all boilers condemned by him as unsafe, of all accidents to boilers in his district whether by explosion or otherwise and of all casualties in connection with boilers in his district. 1901, c. 7; s. 8.

Annual report

**9.** Every inspector shall render annually on or before the thirty-first day of January in each year a concise report to the commissioner of all inspections made by him during the preceding year and of all accidents and casualties that may have happened connected with the operation of steam boilers within his district. 1901, c. 7, s. 9.

Inspector may examine on oath

**10.** Any inspector may by notice in writing signed by him require the attendance before him at a time and place to be named in such notice of any person; and may examine the person so notified to be present on oath regarding any matter connected with the inspection or operation of any boiler or any accident thereto.

(2) Any person wilfully neglecting or refusing in any way to comply with the notice of the inspector or to be examined as aforesaid shall be guilty of an offence and liable on summary conviction thereof to a fine of $25 and on nonpayment of such fine forthwith after conviction to imprisonment for one month. 1901, c. 7, s. 10.

**Boilers to be inspected annually**

**11.** Every boiler in the Territories shall be inspected at least once in each calendar year by an inspector at such time as the inspector may see fit.

(2) If the owner of any boiler proves to the satisfaction of the inspector that his boiler has not been operated since the date of the previous inspection and is in as good condition as when inspected the inspector may issue a new inspection certificate without inspecting the boiler and may remit the fee for inspection hereinafter provided for. 1901, c. 7, s. 11.

**Inspection certificate to issue**

**12.** Upon completion of his inspection the inspector shall issue to the owner of the boiler an inspection certificate; and the owner shall pay the inspector a fee of $5 for such inspection and the issue of such certificate.

(2) Any owner neglecting or refusing to pay the inspector such fee shall be guilty of a breach of this Ordinance.

(3) The inspection fee may be remitted in the case of small boilers operated by private individuals to operate cream separators.

(4) *Such inspection certificate shall be* prima facie *evidence of the due inspection of the boiler and of its fitness to be operated and the possession of such certificate shall authorise the operation of such boiler from the date of such certificate until its inspection in the next following year.* 1901, c. 7, s. 12; 1903, Sess. 2, c. 4, s. 1.

**Production thereof**

**13.** The inspection certificate shall be exposed in a conspicuous place in the boiler or engine room of every stationary boiler and shall be produced at any time by the owner or operator of any portable boiler upon demand of the inspector.

(2) Any owner refusing or neglecting to post up or produce the inspection certificate shall be guilty of an offence and liable upon summary conviction to a penalty not exceeding $25. 1901, c. 7, s. 13.

**Operating without inspection certificate**

**14.** Any owner who operates a boiler without being in possession of an inspection certificate shall be guilty of an offence and liable upon summary conviction thereof to a penalty of not less than $25 and not more than $100. 1901, c. 7, s. 14.

Certain boilers exempted from operation of this Ordinance

**15.** The provisions of this Ordinance respecting the inspection of boilers shall not apply to any boiler insured and inspected by any duly incorporated boiler insurance company doing business in Canada if the owner or owners of such boiler shall when required by an inspector appointed under the provisions of this Ordinance produce the certificate of inspection for the current year from such company. 1901, c. 7, s. 15.

Unsafe boiler not to be used

**16.** Any boiler declared to be unsafe by an inspector shall not be used until such repairs as are ordered by the inspector have been made and the certificate required hereunder duly issued; and any person operating a boiler declared to be unsafe by an inspector before the repairs ordered by the inspector are completed and the certificate issued shall be guilty of an offence and upon summary conviction thereof liable to a penalty of $50. 1901, c. 7, s. 16.

Boiler in course of construction or repair may be examined

**17.** Inspectors shall have the right at all reasonable hours to examine boilers in course of construction or undergoing repair and to refuse to grant a certificate of inspection for any boiler found to be improperly constructed or repaired or of which permission to make such inspection has been refused. 1901, c. 7, s. 17.

Inspector to have free access for inspection

**18.** The owner or operator of any steam boiler shall allow the inspector free access to the same; and shall furnish water and fill the boiler to permit of the hydrostatic test being made and when necessary shall remove any jacket or covering from the boiler as directed by the inspector; he shall also assist the inspector in making his inspection and shall point out any defect that he may know of or believe to exist in the boiler or the machinery connected therewith.

Owner or operator to assist inspector

(2) Should any owner refuse or neglect to furnish the necessary water and fill the boiler for inspection the inspector may have such work done at the expense of the owner. 1901, c. 7, s. 18.

Steam guage

**19.** Every steam boiler shall be provided with a reliable steam gauge of approved make.

(2) Such steam gauge shall be tested by the inspector and set to agree with his standard gauge. 1901, c. 7, s. 19.

Provision of fusible plug

**20.** Every steam boiler shall be provided with a fusible plug of good banca tin inserted in the flues or other portion of the boiler exposed to heat from the furnace when the water therein falls below the limit allowed by this Ordinance. 1901, c. 7, s. 20.

**21.** Every boiler shall be provided with a lock pop safety valve of approved make which shall be set by the inspector at the time of his inspection and properly locked and sealed. Provision of lock pop safety valve

(2) Any person removing, destroying or in any way interfering with the lock or sealing device on any lock pop safety valve after it has been locked and sealed by an inspector shall be guilty of an offence and liable upon summary conviction thereof to a penalty of $50. 1901, c. 7, s. 21.

**22.** Every owner of a boiler shall at once report to the nearest inspector any accident or casualty which may happen in connection with the operation of his boiler; and any owner who neglects to so notify the inspector shall be guilty of an offence and liable upon summary conviction thereof to a fine not exceeding $10. 1901, c. 7, s. 22. Owner to report accidents

**23.** In inspecting boilers as herein provided the inspectors shall: Duties of inspectors

(*a*) Satisfy themselves by a thorough examination inside and out that the boilers are properly constructed and of good and suitable material;

(*b*) Subject the boilers to such hydrostatic pressure and hammer tests as may be necessary to determine the safe working pressure at which they may be operated;

(*c*) See that openings for the passage of water and steam respectively and all pipes and tubes exposed to heat are of proper dimensions and free from obstruction;

(*d*) See that the flues are circular in form;

(*e*) Satisfy themselves that the friction (fire line) of the furnace is at least two inches below the prescribed minimum water line of the boiler;

(*f*) See that the arrangements for delivering the feed water are such that the boilers cannot be injured thereby;

(*g*) Satisfy themselves that such boilers and their steam connections may be safely employed without peril to life;

(*h*) See that the boilers are provided with lock pop safety valves of proper size and properly placed;

(*i*) See that the pop safety valve is properly adjusted so as to permit of no greater steam pressure in the boiler than the pressure allowed by the inspection certificate and that the valve is properly locked and sealed;

(*j*) See that the boiler is provided with a steam gauge of approved make and test and set such gauge so as to agree with standard gauge;

(*k*) See that the boiler is provided with a sufficient number of gauge cocks and a properly inserted fusible plug so placed as to fuse by the heat of the furnace whenever the water in the boiler falls below its prescribed limits;

(*l*) Satisfy themselves that adequate and certain provision has been made for an ample supply of water to feed the boiler at all times so that in high pressure boilers the water shall not be less than four inches above crown of flue sheet in upright boilers;

(*m*) Satisfy themselves that means for blowing out are provided so that mud and sediment may be removed while the boiler is under steam;

(*n*) See that the boilers are provided with the necessary number of "man holes" of proper size to permit of the inside of boilers being examined and properly cleaned;

(*o*) See that the setting of stationary boilers is properly constructed so as to prevent accident due to failure of walls or any other parts of such setting. 1901, c. 7, s. 23.

**Hydrostatic tests**

**24.** In subjecting boilers to hydrostatic pressure inspectors shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter made in the best manner of plates one-fourth of an inch thick of good materials and double riveted. 1901, c. 7, s. 24.

**Working pressure of boiler**

**25.** Inspectors shall rate the working pressure of all boilers according to their strength as compared with the standard provided in the preceding section; but the working pressure allowed in the operation of any boiler shall not exceed three-fourths of the hydrostatic test pressure to which such boiler has been subjected at the time of the inspection. 1901, c. 7, s. 25.

**Owner to repair boiler when required**

**26.** In addition to the annual inspection of all boilers required by this Ordinance it shall be the duty of each inspector to examine and inspect at any time any boilers which may be reported to him to be in an unsafe condition and to notify in writing the owner or person using such boiler to make such repairs as he may deem necessary in order to render such boiler serviceable and safe for use. 1901, c. 7, s. 26.

### ENGINEERS.

**Operating boilers without certificates**

**27.** Anyone not holding a final or provisional certificate of qualification as an engineer or a permit under this Ordinance who at any time operates any steam boiler or is in charge of any steam boiler while in operation whether as owner or as engineer shall be liable on summary conviction to a penalty of not less than $5 and not more than $50. 1901, c. 7, s. 27.

**Certificates to persons who hold certificates of qualification**

**28.** Any person who holds a certificate of qualification as an engineer from any incorporated body authorised to grant such certificates of qualification for operating steam boilers and engines or from the Dominion or any provincial government or from any competent authority in any other portion of the British Empire or the United States shall be entitled upon making application to the commissioner accompanied by such evidence of his qualification as may be required by the commissioner and upon payment of a fee of $3 to obtain a certificate of qualification as an engineer in the class determined by the commissioner and to be registered under the provisions of this Ordinance. 1901, c. 7, s. 28.

**Provisional certificate**

**29.** *Any person on application and upon showing to the satisfaction of the commissioner that he has been engaged in the operation of a steam boiler or boilers for at least two years before the date of his application and upon producing a certificate of uniform good conduct and sobriety from the owner or owners by whom he has been employed or from some other reliable person or upon producing satisfactory evidence that he has had at least one year's experience in the operation of a steam boiler or boilers and a certificate of an inspector certifying that he has been examined in the theory and practice of operating a steam boiler and found duly qualified may upon payment of a fee of $3 be granted a provisional certificate of qualification valid for a period of one year from the date thereof.*

(2) *The commissioner may upon the recommendation of an inspector and upon payment of the fee of $3 grant a second provisional certificate valid for a period of one year from its date to any person who has submitted to an examination in accordance with the provisions of section 31 but has failed to*

*receive from such inspector a recommendation for a final certificate of qualification but no further or other provisional certificate shall be granted.* 1903, Sess. 2, c. 4, s. 2.

Certificates to holders of provisional certificates

**30.** The holder of a provisional certificate of qualification may at any time after the issue of such certificate upon the recommendation of an inspector be granted a final certificate of qualification as an engineer and be registered under the provisions of this Ordinance. 1901, c. 7, s. 30.

Examination of holders of provisional certificates

**31.** Before issuing a recommendation for the registration of and issue of a final certificate to the holder of any provisional certificate as provided in the preceding section the inspector shall thoroughly examine the holder of such provisional certificate as to his knowledge of the construction, care, and operation of stationary steam boilers and engines and shall satisfy himself of the competency of the holder of such provisional certificate. 1901, c. 7, s. 31.

Examination for certificate

**32.** The examination of the holders of the provisional certificates of qualification provided for by section 29 of this Ordinance or of any person desiring to qualify as an engineer as hereinafter provided and the issue of certificates to such candidates as may pass such examination shall be conducted in accordance with such regulations as may from time to time be prescribed by the commissioner; and the commissioner shall prescribe the fees to be paid for such examinations or the issue of certificates to those who pass such examinations. 1901, c. 7, s. 32.

Appeal from inspector

**33.** Any candidate who considers he has been unfairly dealt with by any inspector may appeal in writing to the commissioner setting forth his grievance; and the commissioner shall at once cause such charge to be investigated and shall give a decision in the matter which shall be final. 1901, c. 7, s. 33.

Certificate to be posted

**34.** Every person holding a certificate under this Ordinance shall expose it in some conspicuous place in the engine or boiler room in which he is employed or cause it to be attached to the engine or boiler of which he is in charge; and in default shall be liable upon summary conviction to a penalty of not less than $5 and not more than $20.

(2) If such person be employed in charge of a portable engine and boiler he shall produce his certificate for inspection on being required so to do by any inspector.

Absence or nonproduction of certificate

(3) The absence of such certificate or its nonproduction on demand shall be *prima facie* evidence that the person operating the engine and boiler has no certificate. 1901, c. 7, s. 34.

Year's service requsite

**35.** Any person other than those mentioned in sections 28 and 29 of this Ordinance who may desire to qualify for registration and to obtain a certificate entitling him to operate steam boilers and engines connected therewith in the Territories shall serve twelve months as assistant to the holder of a final certificate issued in accordance with the provisions of this Ordinance; and at the expiration of such term shall pass an examination before one of the inspectors appointed under this Ordinance to prove that he has the necessary knowledge of the construction, care and operation of stationary steam boilers and engines connected therewith.

Examination to follow

Evidence required

(2) Before being entitled to such examination the said assistant shall file with the inspector satisfactory evidence as to the length and nature of such service. 1901, c. 7, s. 35.

Persons acting in absence of certified engineer

**36.** In case any owner of a steam boiler shows to the satisfaction of an inspector that he is unable by reason of some unforseen occurrence to immediately secure the services of a duly qualified person to operate such boiler the inspector may grant a permit to any person producing satisfactory evidence of good conduct and sobriety to operate such boiler for a period of thirty days from the date of such permit and in such case no penalty shall be incurred by reason of the holder of such permit operating such steam boiler during the period covered thereby.

Fee for permit

(2) A fee of $3 shall be paid to the inspector for every such permit issued by him. 1901, c. 7, s. 36.

Operating without certificate or permit

**37.** Any one who employs a person to operate a steam boiler who has not a certificate or permit under this Ordinance shall be guilty of a breach of the provisions of this Ordinance. 1901, c. 7, s. 37.

Commissioner may cancel permit

**38.** The commissioner may upon due cause being shown cancel any certificate issued under the provisions of this Ordinance. 1901, c. 7, s. 38.

Regulations and forms

**39.** The commissioner may from time to time make such regulations and prescribe such forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance. 1901, c. 7, s. 39.

Fees

**40.** The fees payable under this Ordinance shall be paid to the general revenue fund. 1901, c. 7, s. 40.

Penalties

**41.** Any person guilty of a breach of any of the provisions of this Ordinance for which no provision is herein made shall on summary conviction thereof be liable to a penalty not exceeding $50. 1901, c. 7, s. 41.

Repeal

**42.** Chapter 17 of *The Consolidated Ordinances 1898* is hereby repealed. 1901, c. 7, s. 42.

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# STOCK INJURED BY RAILWAY TRAINS·

C.O. 1898, c. 83
15 March, 1899

## An Ordinance respecting Stock Injured by Railway Trains.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Notices to be given when stock killed or injured

**1.** In the event of any stock being killed or injured by any railway train the conductor or other person in charge of the said train shall forthwith notify the nearest station agent of the railroad company upon whose line of railway the accident has occurred and the said agent shall forthwith in case the owner is known or afterwards becomes known to the agent send a notice to the owner stating the date and place of the accident. C. O. 88, s. 1.

Notice to be posted

**2.** The agent shall in all cases forthwith post in a public place and manner in the station house a notice giving a full description of the animal or animals with a statement of the time and place where the animal or animals were killed or injured and such notice shall not be removed for three months unless in the meanwhile the owner becomes known to the agent. C. O. 83, s. 2.

Penalty

**3.** Any person infringing any of the provisions of this Ordinance shall be liable on summary conviction thereof to a penalty of not more than $50. C. O. 83, s. 3.

# STOCK INSPECTION.

## An Ordinance respecting the Inspection of Stock.

1899, c. 19 29 April, 1899

[*Assented to April 29, 1899.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Stock Inspection Ordinance 1899."* 1899, c. 19, s. 1.

### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

1. The expression "brand" means any letter, sign, character or numeral recorded as allotted to any owner and the permanent impression of any letter, sign, character or numeral placed upon stock under the provisions of chapter 76 of *The Consolidated Ordinances 1898;*

2. The expression "commissioner" means the commissioner of agriculture;

3. The expression "department" means the department of agriculture;

4. The expression "inspector" includes deputy inspector;

5. The expression "stock" includes any horse, mare, gelding colt or filly, ass or mule and any bull, cow, ox, heifer, steer or calf. 1899, c. 19, s. 2.

### INSPECTORS AND DEPUTY INSPECTORS.

Inspectors of stock

**3.** The commissioner may from time to time appoint such persons as he may think fit to be inspectors of stock. 1899, c. 19, s. 3.

Deputy inspectors of stock

**4.** An inspector of stock may by writing under his hand appoint one or more persons to be deputy inspectors of stock, and the production of a writing purporting to be the appointment of a deputy inspector shall be *prima facie* evidence of such appointment. 1899, c. 19, s. 4.

Inspectors have powers of constables

**5.** Inspectors and deputy inspectors shall for the purposes of this Ordinance have the powers of constables. 1899, c. 19, s. 5.

### INSPECTION BEFORE SHIPMENT.

Stock to be inspected before shipped

**6.** No person shall place any stock in a railway car unless such stock has first been inspected by an inspector of stock and such inspector has issued a certificate in or to the effect of form A in the schedule hereto. 1899, c. 19, s. 6.

Evidence of right to possession of stock to be produced

**7.** No such certificate shall be issued by any inspector unless the shipper of such stock produces to him a memorandum of sale from the person who, from the brand or brands on such stock, appears to be the owner thereof or unless such person or his agent verbally consents to the granting of the certificate by the inspector.

(2) The provisions of this section shall not apply to any shipper of cattle branded with the recorded brand of such shipper but such shipper shall before receiving the said certificate deliver to the inspector a memorandum signed by him or his agent setting forth the age, sex and brands of each animal.

(3) In the case of unbranded cattle the shipper shall deliver to the inspector a memorandum setting forth the age, sex and description of each animal and stating from whom each animal was originally acquired by him or his agent. 1899, c. 19, s. 7.

Cancellation of certificate of inspection improperly issued

**8.** In case any inspector has reason to believe that any certificate of inspection issued by him was improperly issued or that the person to whom it was issued was not for any reason entitled to the same the inspector may demand the return to him of such certificate for cancellation and the person then holding the same shall thereupon return such certificate to the inspector. 1899, c. 19, s. 8.

Cancellation of memorandum of sale

**9.** The inspector before issuing a certificate as mentioned in section 6 hereof shall (if the memorandum described in subsection 1 of section 6 hereof relates only to the stock then intended to be shipped, or if having applied to other stock has as to them already been cancelled) cancel and retain such memorandum; if the memorandum relates to more animals than those about to be shipped and has not been previously cancelled the inspector shall cancel it as to the animals about to be shipped and return it to the person who produced it to him. 1899, c. 19, s. 9.

Inspection fee

**10.** The inspector shall be entitled to a fee of five cents for every animal inspected by him under this Ordinance and the said fee shall be paid to the inspector before any certificate of inspection is given by him. 1899, c. 19, s. 10.

### BUTCHER'S RECORD. HIDES.

**11.** Every butcher shall keep a record of all cattle slaughtered by or for him, naming therein the person from whom obtained and his place of residence, and the age, sex, brands (if any) and marks of all such cattle, which record shall be kept at the place of business of such butcher and shall at all times be open to inspection by any person. 1899, c. 19, s. 11.

Butchers to keep record of cattle slaughtered

**12.** Every butcher shall keep the hides of all cattle slaughtered by or for him for a period of not less than thirty days and such hides shall be produced by him for the inspection of any person on order of a justice of the peace or an inspector. 1899, c. 19, s. 12.

Hides to be kept

**13.** Every person other than a butcher who slaughters any head of cattle shall preserve the hide of the same for a period of thirty days and shall produce the same for the inspection of any person on the order of a justice of the peace or an inspector:

Hides of animals slaughtered by others than butchers

Provided always that such hide may at any time before the expiration of the said period be sold to any person required by this Ordinance to keep a record of hides purchased by him. 1899, c. 19, s. 13.

**14.** Every person shall keep a record of all hides of cattle obtained by him, which record shall state:

Purchasers of hides to keep record

(*a*) The date of each such purchase;

(*b*) The name and place of residence of the person from whom purchased;

(*c*) All brands and marks on such hides, specifying distinctly whether the brands are vented or not;

which record shall at all times be open to inspection by any person. 1899, c. 19, s. 14.

**15.** No person other than the owner of such animal or his agent shall remove the hide from the carcass of any animal found dead. 1899, c. 19, s. 15.

Removal of hides of animals

### INSPECTOR'S RETURN.

**16.** Every inspector appointed under the provisions of this Ordinance shall on or before the fifteenth day of January in each year make a return to the commissioner setting forth the

Inspector's return

fees and emoluments received under this Ordinance for the year next preceding, and shall at all times furnish to the commissioner on demand therefor any information he may require. 1899, c. 19, s. 16.

### PENALTIES.

Penalty for breach of Ordinance

**17.** Any person contravening any of the provisions of this Ordinance shall be guilty of an offence and on summary conviction thereof shall be liable to a penalty not exceeding $100. 1899, c. 19, s. 17.

### MISCELLANEOUS.

Repeal

**18.** Sections 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 of chapter 76 of *The Consolidated Ordinances 1898* are hereby repealed. 1899, c. 19, s. 18.

Date of effect

**19.** This Ordinance shall come into force on the first day of July, 1899. 1899, c. 19, s. 19.

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## SCHEDULE.

### FORM A.

THE STOCK INSPECTION ORDINANCE.

A.D. 1

I have this day inspected for
at head of stock
described as follows:

(*Here state age, sex and brands of each animal.*)

*Inspector of Stock.*

1899, c. 19.

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# STRAY ANIMALS.

C.O. 1898, c. 80
15 March, 1899

## An Ordinance respecting Estray Animals.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Stray Animals Ordinance."* C. O. 80, s. 1. Short title

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

1. The expression "department" means the department of agriculture; "Department"

2. The expression "minister" means the member of the executive council to whom is assigned from time to time the duty of administering the department of agriculture; "Minister"

3. The expression "cattle" means any bull, cow, ox, heifer, steer or calf; "Cattle"

4. The expression "horse" means any horse, mare, gelding, colt, filly, ass or mule; "Horse"

5. The expression "sheep" means any ram, ewe, wether or lamb; "Sheep"

6. The expression "animal" means any head of cattle, horse, sheep, goat, swine or goose; "Animal"

7. The expression "estray" means any animal found on the premises or in the herd, band or flock of any person other than its owner; "Estray"

8. The expression "justice" means any justice of the peace; "Justice"

9. The expression "owner" means any person owning any animal or agent or overseer of any such owner; "Owner"

10. The expression "finder" means any person who finds he has an estray on his premises or in his band, herd or flock; "Finder"

11. The expression "run at large" or "running at large" means without being under control of the owner either by being in direct or continuous charge of a herder or by confinement within any building or other inclosure or a fence whether the same be lawful or not. C. O. 80, s. 2. "Running at large"

### PROCEDURE.

**3.** Any person who finds he has on his premises or in his band, herd or flock any estray animal (other than a stallion or bull) the owner of which is known to him, which cannot be driven away from such premises, band, herd or flock shall at Where owner is known once notify such owner through the mail and such owner within ten days after being so notified shall remove his animal from such premises, band, herd or flock. C. O. 80, s. 3.

Where owner is not known or where owner does not remove animal

4. Any person who finds he has on his premises or in his band, herd or flock any estray animal (other than a stallion or bull) the owner of which is unknown to him, which cannot be driven away from such premises, band, herd or flock, or any such animal the owner of which is known to him which is not removed from the said premises, band, herd or flock within ten days after such owner has been notified as provided in the section next preceding, shall at once forward to the department a notice to the effect that such animal is on his premises or in his band, herd or flock (as the case may be) which notice shall contain the name, location and post office address of the finder and a full description of the animal with all its marks (natural or artificial), colour and probable age with any other remark which may lead to its identification; and such notice shall be published for two consecutive insertions in the official gazette and a copy of each issue containing such notice shall be forwarded to every post office and every post of the North-West Mounted Police in the Territories and a copy of the same shall be forwarded with every copy of the said gazette.

Notice to be given

Advertising

(2) In addition to the notice forwarded for insertion in the said gazette the finder of any such animal as is described in the first subsection to this section may cause a copy of the notice to be inserted in three successive weekly issues of the nearest newspaper and any expenditure (not exceeding the sum of $1) made for such advertising shall be reimbursed to the finder by the owner when the animal is claimed or, if not claimed, by the justice after the sale of such animal upon proof of such expenditure having been made. C. O. 80, s. 4.

Owner may recover animal on tender of expenses

5. The owner of any such estray animal shall be entitled to recover the same from any person in whose possession it may be upon tender of the amount of the expenses incurred up to the time of such tender from the day on which notice was given of the finding of the animal.

What expenses are allowed

(2) Such expenses shall consist of the sums prescribed by this Ordinance * * * * and no other; and if it is made to appear in any proceedings taken for the recovery of any such estray animal that tender was made to the finder by or on behalf of the owner of the animal of the amount of the expenses to which the said finder is lawfully entitled and that such tender was refused, the finder shall thereby forfeit all claim to such expenses in addition to any other penalty to which he may be liable.

(3) *Before delivering the animal to the person claiming to be the owner thereof the finder may require from him a statutory declaration stating that he is the owner of the said animal.* C. O. 80, s. 5 and 1900, c. 30, ss. 1 and 2.

Settlement of disputes as to expenses

**6.** In case the owner of such animal and the finder are unable to agree as to the amount of such expenses they shall forthwith proceed in the following manner: both parties at any time within three days shall appear before the nearest accessible justice to the place where the animal was found or such other justice as the parties may mutually agree to appear before and upon hearing the statements of the parties upon oath or otherwise as to the justice shall seem advisable such justice shall determine the amount of the expenses payable in the matter and such determination of the justice shall be final and conclusive between the parties.

Justice's fee for settlement of dispute

(2) Such justice shall be entitled to a fee of $1 for determining such expenses which shall be paid by the party against whose contention the justice determines.

Penalty for default of payment of expenses

(3) In default of the payment of the expenses so determined and the justice's fee as aforesaid within a time to be stated by the justice, the justice shall sell or cause such animal to be sold by public auction either by the nearest accessible pound keeper or by any person authorised by him in writing to sell such animal and such justice out of the proceeds of such sale shall first pay the expenses of sale and advertising and justice's fees and then the costs of keeping (if any are allowed) to the finder and the balance to the owner (if known), otherwise to the minister.

Return to department

(4) The justice of the peace shall immediately after the sale send to the department a return in form B in the schedule hereto.

(5) *The* [illegible] *minister* [illegible] *in regard* [illegible] C. O. 80, s. 6 and [illegible]

**7.** Any [illegible] the [illegible] be paid [illegible] (satisfactory [illegible] examine [illegible] therefor [illegible] month [illegible] form part of [illegible] C. O. 80, s. 7 and 1900, c. 30, s. 5.

When animal may be sold

**8.** If such estray animal is not claimed within six months after the date of the first publication of the notice provided for in section 4 of this Ordinance the finder *within sixty days thereafter shall* make application to a justice in form A in the schedule hereto verified under oath before the said justice and the said justice may proceed to sell the animal and deal with the proceeds in the manner provided in subsection 3 of section 6 of this Ordinance.

Duties of justice

(2) *Before proceeding to such sale the said justice shall examine the animal and the brands thereon if any and the notice in the official gazette provided for by section 4 hereof, and if on such examination the justice is satisfied that such notice contains an accurate and sufficient description of the animal he shall proceed to sell the same; but if not so satisfied the justice shall direct the finder to insert in the official gazette a notice containing an accurate and sufficient description of the animal which notice shall be the notice required by section 4 hereof; and the finder shall not be entitled to receive any compensation for anything done prior to the mailing to the official gazette of the last mentioned notice.*

Return by justice

(3) *The said justice shall immediately after the sale send to the department a return in form B in the schedule hereto.* C. O. 80, s. 8 and 1900, c. 30, s. 6.

Procedure at sale

**9.** At the time and place appointed for the sale of any estray animal the finder shall attend with such animal and shall with the animal present a statement of the fees for keeping and expenses incurred in connection with such animal to the justice or other person authorised by the justice to offer the animal for sale. C. O. 80, s. 9.

## FEES.

Authorised fees

**10.** *The following and no other shall be the fees payable under this Ordinance:*

### *To the Finder*

*For the care and sustenance of horses, no charge whatever shall be allowed;*

*For the care and sustenance of every head of swine, ten cents per day from date of mailing of notice to the owner or to the official gazette;*

*For the care and sustenance of any goose, goat, sheep or head of cattle during the period from the fifteenth day of*

*November to the fifteenth day of April, five cents per day from the date of mailing of notice to the owner or to the official gazette; but not exceeding $2 for any goose, goat or sheep, or $5 for any head of cattle;*

*For advertising in a newspaper, the amount actually expended not exceeding $1;*

*For mileage to and from place of sale, ten cents per mile for each mile necessarily travelled but not exceeding thirty miles;*

*For postage, the amount actually and necessarily expended.*

### *To the Justice*

*For preparing and posting notices of sale $1;*

*For preparing application and administering oath, $1;*

*For postage and exchange or commission on transmission of proceeds of sale, the amount actually expended.*

### *To the Salesman*

*Two and one-half per centum of the amount realised by the sale.* 1900, c. 30, s. 7.

### OFFENCES AND PENALTIES.

**11.** If any person commit any of the next following offences he shall on summary conviction thereof before a justice of the peace be liable to a penalty not exceeding $100: Penalty

1. Takes, rides or drives off any horse or head of cattle belonging to another without the owner's consent; Offences

2. When taking his own animal from pasture, without the owner's consent takes or drives off the animal of any other person grazing with his own;

3. Causes or allows any horse or head of cattle belonging to another party without consent of such party, to be driven with his band or herd more than [illegible] from its grazing place:

Provided that if the owner of any animal in taking it from pasture finds it necessary to drive other animals a greater distance than [illegible] before he can separate his own animal from [illegible] the penalties imposed [illegible] to the place [illegible]

4. [illegible] any [illegible]

5. Neglects to provide sustenance for any estray animal while such animal is to his knowledge upon his premises or in his band, herd or flock;

6. Rescues, incites or attempts to rescue any animal without payment of the fees due for keep and other expenses incurred by the finder on account of such animal;

7. Rides, drives or otherwise works or uses for his own pleasure or benefit any estray horse or ox captured or detained under any of the provisions of this Ordinance;

8. Neglects to promptly notify the owner (if such owner is known) or if such owner after due notification does not take away his animal or (if such owner is not known) neglects to forward the notice provided for in section 4 of this Ordinance to the department on finding an estray animal on his premises or in his band, herd or flock;

9. Being the finder purchases in person or by his agent or has any interest of any kind in any animal sold under the provisions of this Ordinance.

**Penalty against owner failing to remove**

(2) *The owner of any horse who neglects to remove the same from the premises where it has been found within fifteen days after he has been notified under the provisions of section 3 hereof shall be liable to a penalty of $1 for each day during which such neglect continues after the expiration of the said fifteen days.* C. O. 80, s. 11 and 1900, c. 30, s. 8.

**12.** Nothing in the preceding section shall prevent the owner of any animal taken, ridden or driven off, improperly treated or worked as aforesaid, bringing a civil action for damages in addition to any penalty imposed hereunder. C. O. 80, s. 12.

**No rights impaired**

**13.** Nothing in this Ordinance relating to estray animals shall impair the rights, powers or procedure given under any Ordinance respecting the seizure, driving, impounding or selling animals running at large or doing damage. C. O. 80, s. 13.

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## SCHEDULE.

### FORM A.

To *A.B.* a justice of the peace in and for the North-West Territories.

The applicant avers that on the day of 1 , (*naming the date of capture*) he found a (*description of animal found*) on his premises ( *or* band, herd *or* flock *as the case may be*);

That he is unable to drive such animal away from his premises, (*or* band, herd *or* flock *as the case may be*);

That he has given the notices required by *The Stray Animals Ordinance;*

That the notice was published in the issue of the official gazette dated (*date of first issue of gazette containing notice*)*;*

That six months have elapsed without the said animal having been released by the payment to the applicant of the moneys he is entitled to be paid under the provisions of the said Ordinance;

That the applicant prays that the said animal may be sold at a time not earlier than the eighth day after the date of this notice.

(*Signature of captor.*)

I (*name the finder*) the applicant above named make oath and say that the facts set forth in the above application are true in substance and fact.

(*Signature of captor.*)

Sworn before me
at
this day
of 1

*A.B., J.P.*

C. O. 80, Form A.

## FORM B.

Return of animals sold under *The Stray Animals Ordinance.*

| INFORMATION REQUIRED BY DEPARTMENT. | DETAILS FURNISHED BY JUSTICE. |
|---|---|
| Class of animal ...................... | |
| General description and brands (if any) .. | |
| Name and address of finder ............ | |
| Date of capture ...................... | |
| Dates of gazettes containing notices.... | |
| Date of sale ......................... | |
| Number of days' keep ................ | |
| Total amount realised ................ | $ |
| Commission on sale .................. | $ |
| Justices' fees ....................... | $ |
| Keep .............................. | $ |
| Number of miles to sale .............. | |
| Mileage at 10 cents per mile .......... | $ |
| Postage and exchange ................ | $ |
| Amount sent to Department ............ | $ |

..........................*J.P.*

Date................ Post office................

1900, c. 30, s. 9.

## STREAMS.

*See* POLLUTION OF STREAMS.

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# SUCCESSION DUTIES.

## An Ordinance to provide for the Payment of Succession Duties in certain cases.

1903, Sess. 2, c. 5
21 Nov., 1903

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Short title

**1.** This Ordinance may be cited as "*The Succession Duty Ordinance.*" 1903, Sess. 2, c. 5, s. 1.

Application

**2.** This Ordinance shall apply to the estates of persons dying after it comes into effect. 1903, Sess. 2, c. 5, s. 2.

Interpretation

**3.** In this Ordinance and any regulations passed thereunder unless the context otherwise requires:

Property

1. The word "property" includes real and personal property of every description and wheresoever situate and every estate or interest therein capable of being devised or bequeathed by will or of passing on the death of the owner to his heirs or personal representatives;

Aggregate value

2. The expression "aggregate value" means the value of the property before any debts or other allowances or exemptions are deducted therefrom and ~~for the purposes of subsections (3), (4) and (5) of section 5~~ includes property outside of the Territories;

C. 24. S. 1. 1908

Dutiable value

3. The expression "dutiable value" means the value of the property after the debts or other allowances or exemptions authorised by this Ordinance are deducted and in determining the dutiable value of the estate of a deceased the value shall be taken as at the date of the death of the deceased and allowance shall be made for reasonable funeral expenses and for debts and incumbrances which shall be deducted from the value of the property but no allowance shall be made:

Repealed

C. 24. 1

(*a*) For debts incurred by the deceased or incumbrances created by a disposition made by the deceased unless such debts or incumbrances were incurred or created *bona fide* for full consideration in money or money's worth wholly for the deceased's own use and benefit and take effect out of his interest; or

(*b*) For any debt in respect whereof there is a right to reimbursement from any other estate or person unless such reimbursement cannot be obtained; or

(*c*) More than once for the same debt or incumbrance charged upon different portions of the estate; or

(*d*) For the expenses of administration except the expenses of procuring letters probate or letters of administration; or

(*e*) For the expenses of the execution of any trust created by the will of a testator.

Repealed

Court — 4. "Court" shall mean the supreme court of the North-West Territories;

Judge — 5. "Judge" shall mean a judge of the said court. 1903, Sess. 2, c. 5, s. 3.

To what Ordinance does not apply — **4.** This Ordinance shall not apply as respects the payment of duty:

1. To any estate the value of which after the allowances authorised by this Ordinance does not exceed five thousand dollars; nor

See c. 24 - 1908 S. 3

2. To any estate in respect of property passing by will or intestacy or otherwise to or for the use of the father, mother, ~~brother, sister~~, husband, wife, child, grandchild, daughter-in-law or son-in-law of the deceased or to any person or persons adopted before the age of twelve years by the deceased as his child or children or to any person to whom deceased for not less than ten years prior to his death stood in the acknowledged relation of parent where the aggregate value of the property of the deceased does not exceed twenty-five thousand dollars. 1903, Sess. 2, c. 5, s. 4.

Property in respect of which estate liable to succession duty — **5.** Save as aforesaid the estate of any person dying after the coming into force of this Ordinance who at the time of his death was domiciled in the Territories or who being domiciled elsewhere died leaving property in the Territories shall be subject to a succession duty to be paid for the use of the Territories and for the purpose of ascertaining the amount of such duty the classes of property hereinafter enumerated shall be deemed to be part of the estate of the deceased:

**Property in or out of the Territories**

(*a*) All property situate within the Territories and any interest therein or income therefrom whether the deceased person owning or being entitled to such property was at the time of his death domiciled in the Territories or elsewhere and where the deceased at the time of his death was domiciled in the Territories all movable or personal property locally situate without the Territories and any interest therein;

**Property voluntarily transferred in contemplation of death**

(*b*) All property situate as aforesaid or any interest therein or income therefrom which shall be voluntarily transferred by transfer made in contemplation of the death of the transferor or intended to take effect in possession or enjoyment after such death to any person in trust or otherwise or by reason of which transfer any person shall become beneficially entitled in possession or expectancy to any property or the income thereof;

***Donationes mortis causa* or voluntary dispositions within twelve months of death**

(*c*) Any property taken as *donatio mortis causa* or under a disposition purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust, or otherwise, which shall not have been *bona fide* made twelve months before the death of deceased including property taken under any gift, whenever made, of which property *bona fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift and thenceforward retained to the entire exclusion of the donor or of any benefit to him by contract or otherwise;

**Property transferred by owner to himself jointly with some other person**

(*d*) Any property which a person having been absolutely entitled thereto has caused or may cause to be transferred to or vested in himself and any other person jointly whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person including also any purchase or investment effected by the person who was absolutely entitled to the property either by himself alone or in concert or by arrangement with any other person;

**Property passing under settlement**

(*e*) Any property passing under any past or future settlement including any trust whether expressed in writing or otherwise, and if contained in a deed or other instrument effecting a settlement whether such deed or other instrument was made for valuable consideration or not as between the settlor and any other person made by deed or other instrument not taking effect as a will whereby an interest in such property or the proceeds of sale thereof for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the right by the exercise of any power to restore to himself or to reclaim the absolute interest in such property or the proceeds of sale thereof or to otherwise resettle the same or any part thereof;

**Annuities, etc.**

(*f*). Any annuity or other interest purchased or provided either by any person alone or in concert or by arrangement with any other person to the extent of the beneficial interest accruing or arising by survivorship or otherwise on the death of the deceased;

**Property of which deceased was competent to dispose liable to duty**

(*g*) Any property of which a person was at the time of his death competent to dispose; and a person shall be deemed competent to dispose of property if he has such an estate or interest therein or such general or limited power as would if he were *sui juris* enable him to dispose of the property as he thinks fit or to dispose of the same for the benefit of his children or some of them, whether the power is exercisable by instrument *inter vivos* or by will or both including the power exercisable by a tenant in tail whether in possession or not but exclusive of any power exercisable in a fiduciary capacity under a disposition not made by himself or as mortgagee. A disposition taking effect out of the interest of the person so dying shall be deemed to have been made by him whether the concurrence of any other person was or was not required. Money which a person has a general power to charge on property shall be deemed to be property of which he has the power to dispose.

**Particular descriptions not to affect general words**

(2) The descriptions of properties in clauses (*c*), (*d*), (*e*), (*f*) and (*g*) shall not be construed to restrict the generality of the descriptions contained in clauses (*a*) and (*b*).

**Amount of duty**

Repealed see c.24 s.4 1908

~~(3) Where the aggregate value of the property of the deceased exceeds $25,000 so much thereof as passes by will, intestacy or otherwise to or for the benefit of any one or more of the persons enumerated in clause 2 of section 4 shall be subject to a duty as follows:~~

~~Upon the value up to $100,000 at the rate of $1.50 for every $100 of value of the whole property in excess of $25,000;~~

Where the value exceeds $100,000 but does not exceed $200,000 at the rate of $2.50 for every $100 of value of the whole property in excess of $25,000;

Where the value exceeds $200,000 at the rate of $5.00 for every $100 of value of the whole property in excess of ~~$25,000~~.

(4) Where the aggregate value of the property of the deceased exceeds $5,000 so much thereof as passes by will, intestacy or otherwise to the grandfather or grandmother or any other lineal ancestor of the deceased except the father or mother, or to any descendant of a brother or sister of the deceased or to a brother or sister of the father or mother of the deceased or to any descendant of such last mentioned brother or sister shall be subject to a duty of $5 for every $100 of the value ~~in excess of $5,000~~.

" or to any
or brother or
sister of
the deceased "
s. 5. c. 24
1908

(5) Where the aggregate value of the property of the deceased exceeds $5,000 so much thereof as passes to or for the benefit of any person in any other degree of collateral consanguinity to the deceased than is above described or to or for the benefit of any stranger in blood to the deceased save as hereinbefore provided for shall be subject to a duty of $10 for every $100 of the value. ~~[illegible]~~

c 24 - 1908.
s. 6.

(6) No duty shall however be imposed on any estate in respect of any property which, being all of the property passing to one person, when such person is one of the persons enumerated in clause 2 of section 4, does not exceed $5,000 and in any other case does not exceed $200.

(7) If any legacy or succession duty has been paid on any movable or personal property locally situate without the Territories elsewhere than in the Territories no further duty in respect of it shall be imposed beyond the amount, if any, for which the estate would be liable in respect of such property in excess of the amount so paid.

(8) Nothing herein contained shall render any estate liable for duty in respect of any property *bona fide* transferred for a consideration that is of a value substantially equivalent to the property transferred. 1903, Sess. 2, c. 5, s. 5.

**Executors, etc., to file inventory and bonds**

**6.** An executor or administrator applying for letters probate or for letters of administration to the estate of a deceased person shall before the issue of letters probate or administration to him make and file with the clerk of the Surrogate court a full, true and correct statement in duplicate, under oath, showing:

(*a*) A full itemised inventory of all the property of the deceased person including any property not situate in the Territories and the market value thereof; and (*b*) The several persons to whom the same will pass under the will or intestacy and the degree of relationship, if any, in which they stand to the deceased; and the executor or administrator shall before the issue of letters probate or letters of administration deliver to the clerk a bond in a penal sum equal to ten per cent. of the sworn value of the property of the deceased person in respect to which his estate may be liable or may become liable to succession duty executed by himself and two sureties to be approved by the clerk or a guarantee company to be approved by the Territorial treasurer conditioned for the due payment to his Majesty of any duty to which the estate of the deceased coming into the hands of the said executor or administrator may be found liable.

(2) The foregoing subsection shall not apply to estates of which the aggregate value does not exceed $5,000 nor as respects the provisions requiring security to estates in respect of which no succession duty is payable or administration to which is being applied for by a public administrator.

(3) One duplicate of the said statement shall be forthwith transmitted by the clerk of the court to the Territorial treasurer.

(4) Where property passes on the death of the deceased and no executor or administrator can be made accountable for succession duty in respect of such property every person to whom any property so passes for any beneficial interest in possession and also to the extent of the property actually received or disposed of by him every trustee, guardian, committee or other person in whom any interest in the property so passing or the management thereof is at any time vested and every person in whom the same is vested in possession by alienation or other derivative title shall be accountable for the succession duty in respect of such property and shall within two months after the death of the deceased or such later time as the Territorial treasurer shall allow deliver to the clerk of the court of the judicial district in which said property is situate an account to the best of his knowledge and belief of the property which account shall be verified under oath.

(5) Any executor or administrator who in order to escape payment of succession duty imposed by this Ordinance shall fail to include any property of the deceased in the inventory required by this section to be filed or shall distribute any part of the said estate without bringing the same into the Territories shall be personally liable to pay to his Majesty the amount of the duty which would have been payable in respect of the property so omitted or so distributed. 1903, Sess. 2, c. 5, s. 6.

**Appraisement of appraiser**

**7.** In case the Territorial treasurer is not satisfied with the value so sworn thereto or to the correctness of the said inventory he may personally or by his advocate or agent direct in writing some competent person to make a valuation and appraise the said property and also to appraise any property alleged to have been improperly omitted from the said inventory. 1903, Sess. 2, c. 5, s. 7.

**Valuation by appraiser**

**8.** Any appraiser appointed under the provisions of the next preceding section shall forthwith give due and sufficient written notice to the executors or administrators and to such other persons as the clerk of the court may direct of the time and place at which he will appraise the property included in the inventory or any property which in the opinion of the Territorial treasurer his advocate or agent should be included therein and shall appraise the same accordingly at its fair market value and make a written report in duplicate of the appraisement together with such other facts in relation thereto as the clerk of the court may by order require and such report shall forthwith be filed in the office of the clerk of the court and for the purpose of the said inquiry and appraisement the said appraiser shall have all the powers which may be conferred upon commissioners under *An Ordinance respecting Inquiries concerning Public Matters*, being chapter 12 of *The Consolidated Ordinances 1898*.

(2) The appraiser shall be entitled to receive the sum of $5 per day for services performed under this Ordinance and his actual and necessary travelling expenses and the same shall be paid to him by the Territorial treasurer.

(3) One duplicate of the said report shall be forthwith transmitted by the clerk of the court to the Territorial treasurer. 1903, Sess. 2, c. 5, s. 8.

**Mode of assessing property liable to duty**

**9.** If the Territorial treasurer, his advocate or agent and the other parties interested do not agree thereon the clerk of the court of the judicial district in which the property or part of it is situate shall assess and fix the cash value at the date of the death of the deceased of all estates, interests, annuities and life estates or terms of years growing out of his estate and the duty to which such estate is liable and shall immediately file his assessment in his office and give notice thereof by registered letter to the Territorial treasurer and to the executor or administrator and other parties interested. 1903, Sess. 2, c. 5, s. 9.

Appeal from appraisement or assessment

**10.** Any interested person dissatisfied with the appraisement or assessment may appeal therefrom to a judge within thirty days after the making and filing of such assessment and upon such appeal the said judge shall have jurisdiction to determine all questions of valuation and the liability of the appraised estate or any part thereof for such duty and the decision of the said judge shall be final. 1903, Sess. 2, c. 5, s. 10.

Recovery of duties by action

**11.** Any sum payable under this Ordinance shall be recoverable with costs of suit as a duty due to his Majesty from any person liable therefor by action in the supreme court of the North-West Territories in any judicial district and it shall not in any case be necessary to take the proceedings authorised by the preceding sections. 1903. Sess. 2, c. 5, s. 11.

Matters determinable by court

**12.** The said court shall also have jurisdiction to determine what property is liable to duty under this Ordinance, the amount thereof and the time or times when the same is payable and may itself or through any referee exercise any of the powers which by sections 7 to 10 are conferred upon any officer or person. 1903, Sess. 2, c. 5, s. 12.

Action before time for payment of duty

**13.** An action may be brought to determine any question of liability under this Ordinance notwithstanding that the time for the payment of the duty has not arrived and such action shall be considered as an ordinary action in the said court. 1903, Sess. 2. c. 5, s. 13.

Appeals

**14.** An appeal shall lie to the supreme court *en banc* in any action brought under any of the foregoing sections wherever an appeal would lie if the action were between subject and subject. 1903, Sess. 2, c. 5, s. 14.

Declaration as to liability of property transferred before death

**15.** Where any person's estate is declared liable to duty in respect of any property which has previous to the death of such person been conveyed or transferred to some other person the court may declare the duty to be a lien upon such property and may make such declaration although the amount of such duty has not been ascertained and where any property in respect of which the estate would have been liable to duty had such property remained in the hands of the person to whom or for whose benefit it was conveyed or transferred by such deceased person has been conveyed or transferred to any purchaser for valuable consideration the court may direct the person to whom or for whose benefit the said property was conveyed or transferred by such deceased person as aforesaid to pay the amount of the duty to which the estate would have been subject in respect of such property. 1903, Sess. 2, c. 5, s. 15.

Future estate e c., when duty may be paid

**16.** Where the property real or personal in respect of which duty is payable includes any future or contingent estate, income or interest the duty in respect of such estate, income or interest may be paid within the time limited by subsection (1) of section 17 and where so paid the duty shall be on the value of such estate, income or interest as at the death of the deceased. By consent of the Territorial treasurer in writing duty may be paid after the time so limited and before such estate, income or interest comes into possession; but in the event of such consent the duty shall then be on a value not less in any event than the value of such estate, income or interest as at the date when the duty is paid; and no deduction shall be made for duty paid or payable in respect of any prior estate, income or interest. The duty in respect of any future or contingent estate, income or interest if not sooner paid shall be payable forthwith when such estate, income or interest comes into possession in which case the duty shall be on the value computed under section 9 as at the date of such coming into possession; and no deduction shall be made for duty paid or payable in respect of any prior estate, income or interest.

Duty paid before estate comes into possession

(2) Where the duty in respect of any future or contingent estate, income or interest has been paid by the executor, administrator or trustee before such estate, income or interest comes into possession the duty so paid shall be charged on such future or contingent estate, income or interest and shall be repaid with interest at the rate of five per cent. per annum to the executor, administrator or trustee, as the case may be, by the person who is to become entitled to such future or contingent estate, income or interest and if not sooner repaid shall then be repaid at the time when such estate, income or interest comes into possession.

When no person is entitled to the present enjoyment of a future or contingent estate

(3) Where in respect of any future or contingent estate or interest there is no person beneficially entitled to the present income or enjoyment or where there is some part thereof to which there is no person so entitled the duty in respect of such future or contingent estate or interest, or part thereof, as the case may be, shall be payable as in sections 16 and 17 provided.

Commuting duties on future estate or interests

(4) Notwithstanding the duty may under this section not be payable until the time when the right of possession or actual enjoyment accrues any executor, administrator, guardian or

trustee or person owning a prior interest when such executor, administrator, guardian or trustee or person has the custody or control of the property may agree upon or commute for a present payment out of the property in discharge of the said duty; and the treasurer of the Territories may upon the application of any such person commute the succession duty which would or might but for the commutation become payable in respect of such interest for a certain sum to be presently paid and for determining that sum shall cause a present value to be set upon such duty regard being had to the contingencies affecting the liability to and rate and amount of such duty and interest and on the receipt of such sum the treasurer shall give a certificate of discharge from such duty. 1903, Sess. 2, c. 5, s. 16.

**Duties to be payable within eighteen months from the death of the owner**

**17.** The duties imposed by this Ordinance unless otherwise herein provided shall be due and payable at the death of the deceased or within eighteen months thereafter and if the same are paid within eighteen months no interest shall be charged or collected thereon but if not so paid interest at the rate of five per centum per annum from the death of the deceased shall be charged and collected and such duties together with the interest thereon shall be and remain a lien upon the property in respect to which they are payable until the same is paid:

**Proviso**

Provided that the duty chargeable upon any legacy given by way of annuity whether for life or otherwise shall be paid by four equal payments the first of which payments of duty shall be made before or on completing payment of the first year's annuity and the three others of such payments of duty shall be made in like manner successively before or on completing the respective payments of the three succeeding year's annuity respectively. In case the annuitant dies before the expiration of the said four years only payment of instalments which fall due before his death shall be required:

**Extension of time for payment**

Provided further that the Lieutenant Governor in Council upon its being proved to his satisfaction that payment of the duty within the time limited by this subsection would be unduly onerous on the estate may by order so extend the time for the payment of the said duty as shall appear just and reasonable; and the duty shall be due and payable as in the said order set forth.

**Certificate of discharge to be given by Territorial treasurer**

(2) The treasurer of the Territories on being satisfied that the full amount of succession duty has been or will be paid in respect of an estate or any part thereof shall if required by the person accounting for the duty give a certificate to that

effect which shall discharge from any further claim for succession duty the property shown by the certificate to form the estate or such part thereof as the case may be.

**Certificate not a discharge in case of fraud, etc.**

(3) Such certificate shall not discharge any person or property other than a *bona fide* purchaser for valuable consideration without notice from succession duty in case of fraud or failure to disclose material facts and shall not affect the rate of duty payable in respect of any property afterwards shown to have passed on the death and the duty in respect of such property shall be at such rate as would be payable if the value thereof were added to the value of the property in respect of which duty has been already accounted for:

Provided the said treasurer may in his discretion decline to grant such certificate until the expiration of one year from the death of the deceased testator or intestate as the case may be. 1903, Sess. 2, c. 5, s. 17.

**Extension of time for payment of duty**

**18.** Upon the application of any person liable for the payment of any duty under this Ordinance on notice to the Territorial treasurer a judge may make an order extending the time fixed by law for payment thereof where it appears to such judge that payment within the time prescribed by this Ordinance is impossible owing to some cause over which the person liable has no control. 1903, Sess. 2, c. 5, s. 18.

**Administrators, etc., to deduct duty before delivering property**

**19.** Any administrator, executor or trustee having in charge or trust any estate, legacy or property in respect of which duty is payable under this Ordinance shall deduct the duty therefrom or collect the duty thereon upon the appraised value thereof from the person entitled to such property and he shall not deliver any property subject to duty to any person until he has collected the duty thereon. 1903, Sess. 2, c. 5, s. 19.

**Power to sell for payment of duty**

**20.** Executors, administrators and trustees shall have power to sell so much of the property of the deceased as will enable them to pay the duty in the same manner as they may by law do for the payment of debts of the testator or intestate. 1903, Sess. 2, c. 5, s. 20.

**Duty to be paid to Territorial treasurer**

**21.** Every sum of money retained by an executor, administrator or trustee or paid into his hands for the duty on any property shall be paid by him forthwith to the treasurer of the Territories or as he may direct. 1903, Sess. 2, c. 5, s. 21.

**Refunding duty upon subsequent payment of debts**

**22.** Where any debts shall be proved against the estate of a deceased person after the payment of legacies or distribution of property from which the duty has been deducted or upon which it has been paid and a refund is made by the legatee, devisee, heir or next of kin a proportion of the duty so paid shall be repaid to him by the executor, administrator or trustee. 1903, Sess. 2, c. 5, s. 22.

Foreign executors etc. not to transfer stocks, etc.. until duty paid

**23.** No foreign executor or administrator shall assign or transfer any stocks or shares in the Territories standing in the name of a deceased person or in trust for him which are liable to pay succession duty until such duty is paid to the treasurer of the Territories or security given as required by section 6 of this Ordinance and any corporation allowing a transfer of any stocks or shares contrary to this section shall be liable to pay the duty payable in respect thereof. 1903, Sess. 2, c. 5, s. 23.

Mode of enforcing payment of duty

**24.** If it is made to appear on affidavit to a judge that any duty accruing under this Ordinance has not been paid according to law he may make an order by way of originating summons directing the persons interested in the property liable to the duty to appear before the court on a day certain to be therein named and show cause why said duty shall not be paid.

(2) The service of such order and the time, manner and proof thereof and fees therefor and the hearing and determining thereon and the enforcement of the judgment of the court thereon shall be according to the practice in or upon the enforcement of a judgment of the supreme court. 1903, Sess. 2, c. 5, s. 24.

Costs

**25.** The costs of all proceedings under this Ordinance in the court shall be in the discretion of the court or of a judge. 1903, Sess. 2, c. 5, s. 25.

Limitations of actions

**26.** Any action, matter or proceeding by or against the Territories in respect of duties or claims arising upon or out of any succession shall be commenced within six years from the time when such duties or claims became payable. 1903, Sess. 2, c. 5, s. 26.

Fees of clerks of court

**27.** The clerks of the court shall be entitled to take for the performance of duties and services under this Ordinance fees similar to those payable to them under the rules of the supreme court. 1903, Sess. 2, c. 5, s. 27.

Lieutenant Governor to make regulations

**28.** The Lieutenant Governor in Council may make regulations for carrying into effect the provisions of this Ordinance and to cover cases not herein provided for which shall be published forthwith in the official gazette. 1903, Sess. 2, c. 5, s. 28.

# SUGAR FACTORIES.

*See* BEET SUGAR FACTORIES.

# SUNDAY.

*See* PROFANATION OF THE LORD'S DAY.

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# SUPPORT OF ILLEGITIMATE CHILDREN.

## An Ordinance respecting the Support of Illegitimate Children.

1903 Sess. c. 29
21 Nov., 1903

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

The father of an illegitimate child liable for necessaries

**1.** Any person who furnishes food, clothing, lodging or other necessaries to any child born out of lawful wedlock may maintain an action for the value thereof against the father of the child if the child was a minor at the time the necessaries were furnished and was not then residing with his or her reputed father and maintained by him as a member of his family. 1903, Sess 2, c. 9, s. 1.

When other testimony than that of the mother requisite

**2.** Where the person suing for the value of the necessaries is the mother of the child or a person to whom the mother has become accountable for the necessaries the fact of the defendant being the father shall be proved by other testimony than that of the mother. 1903, Sess. 2, c. 9, s. 2.

No action maintainable unless the mother makes affidavit before the birth of the child or within six months after

**3.** No action shall be sustained under the preceding two sections unless it is shown upon the trial thereof that while the mother of the child was pregnant or within six months after the birth of her child she did voluntarily make an affidavit in writing before some one of his Majesty's justices of the peace for the Territories declaring that the person afterwards charged in the action is really the father of the child, nor unless she deposited the affidavit within the time aforesaid in the office of the clerk of the supreme court for the judicial district in which she resides or in the office of the deputy clerk if she resides in a deputy clerk's district. 1903, Sess. 2, c. 9, s. 3.

Such affidavit not to be evidence

**4.** The affidavit shall not be evidence of the fact of the defendant being the father of the child. 1903, Sess. 2, c. 9, s. 4.

Other remedies not to be affected

**5.** This Ordinance shall not take away or abridge any right of action or remedy which without this Ordinance might have been maintained against the father of an illegitimate child. 1903, Sess. 2, c. 9, s. 5.

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## SUPREME COURT.

*See* JUDICATURE.
*Also* APPENDIX, N.W.T. ACT.

## SURGEONS.

*See* MEDICAL PROFESSION.
VETERINARY SURGEONS.

## TAX SALES OF LAND.

*See* CONFIRMATION OF TAX SALES.
MUNICIPAL.
REAL PROPERTY.
SCHOOLS.

## TAXES A LIEN ON LAND

*See* LIENS ON LAND FOR TAXES.
REAL PROPERTY.

## TAXATION.

*See* ASSESSMENT.
BEET SUGAR FACTORIES.
IRRIGATION DISTRICTS.
LOCAL IMPROVEMENTS.
MUNICIPAL.
RAILWAYS.
SCHOOL ASSESSMENT.
VILLAGES.

## TELEPHONE COMPANIES.

*See* WATER, GAS, ELECTRIC AND TELEPHONE COMPANIES.

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# TENANTS IN COMMON.

C.O. 1898, c. 37
15 March, 1899

## An Ordinance respecting Land held by two or more Persons.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

1. Whenever by any letters patent, transfer, conveyance, assurance, will or other assignment land or any interest in land is granted, transferred, conveyed, assigned or devised to two or more persons other than executors or trustees in fee simple or for any less estate legal or equitable such persons shall take as tenants in common and not as joint tenants unless an intention sufficiently appears on the face of such letters patent, conveyance, assurance, will or other assignment that they take as joint tenants. C. O. 37, s. 1. Owners to hold as tenants in common unless intention otherwise

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# TERRITORIAL SECRETARY.

## An Ordinance Respecting the Department of the Territorial Secretary.

C.O. 1898, c. 7
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

1. This Ordinance may be cited as *"The Territorial Secretary's Ordinance."* C. O. 7, s. 1. Short title

### ORGANISATION AND FUNCTIONS OF DEPARTMENT.

2. There shall be a department of the public service of the Territories to be called the department of the Territorial secretary over which the member of the executive council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the Territorial secretary for the time being shall preside. C. O. 7, s. 2. Organisation

3. The powers, duties and functions of the Territorial secretary are as follows: Duties

(*a*) He has all the powers, duties and functions which are assigned by law or custom to provincial secretaries and registrars of the different provinces of the Dominion of Canada in so far as they or any of them may be applicable to the Territories;

(*b*) He is the keeper of the seal of the Territories; and shall issue all letters patent, commissions and other documents under the said seal and countersign the same with the exception of those which shall be countersigned by the clerk of the executive council; and all commissions under the seal shall run in her Majesty's name;

(*c*) He is the keeper of all registers and archives of the Territories. C. O. 7, s. 3.

**To be registrar**

4. The Territorial secretary shall be the registrar of the Territories; and as such shall register all instruments of summons, commissions, letters patent, writs and other instruments and documents issued under the seal of the Territories; and his signature shall be proof of the fact that such registers, archives, instruments of summons, commissions, letters patent, writs and other instruments and documents exist and are lawfully in his possession; and any copy (signed by him) of any document shall be equivalent to the original instrument itself in any court in the Territories; and every document or copy of a document purporting to bear his signature shall be deemed so to do until proof of the contrary. C. O. 7, s. 4.

**Officers and clerks**

5. The Lieutenant Governor may at any time appoint such other officers, clerks and servants as are requisite for the proper conduct of the business of the department, all of whom shall hold office during pleasure C.O. 7, s. 5.

### FEES.

**Fees**

6. The Lieutenant Governor in Council may from time to time make a tariff of fees which shall be paid for the issuing and registering of commissions, letters patent, licenses and other instruments and documents and for the delivery of certified copies thereof or of certified extracts from the registers and archives in the Territorial secretary's department as hereinbefore mentioned; and the said Territorial secretary shall account to the Territorial treasurer for all moneys received in virtue of such tariff or of any Ordinance in force in the Territories in such manner as may be prescribed by law or by the Lieutenant Governor in Council as the case may be. C. O. 7, s. 6.

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## TERRITORIAL TREASURER.

*See* TREASURY DEPARTMENT.

# THRESHERS' LIENS.

## An Ordinance respecting Threshers Liens.

C.O. 1898, c. 60
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Thresher entitled to take grain to secure payment

**1.** In every case in which any person threshes or causes to be threshed grain of any kind for another person, at or for a fixed price or rate of remuneration, the person who so threshes the said grain, or causes the same to be threshed, shall have a right to a sufficient quantity of such grain for the purpose of securing payment of the said price or remuneration, if such grain is taken at the time when such threshing is finished, *or within sixty days thereafter.* C. O. 60, s. 1, and 1899, c. 11, s. 1, and 1901, c. 19, s. 1.

Quantity and value of grain to be retained

**2.** The quantity of grain which may be so retained shall be a sufficient quantity, computed at the market value thereof at the nearest market, ~~less two and one-half cents per bushel for each ten miles~~ *between the place of threshing and the nearest market* for hauling the same to and delivering the same at the nearest available market, when sold, to pay for the threshing of all grain threshed by the person taking the grain or by his servants or agents for the owner thereof during that same season. C. O. 60, s. 2, and 1899, c. 11, s. 2.

Lien to have priority

**3.** The right to retain and remove such quantity of grain shall *if exercised forthwith after the threshing is finished but not otherwise* prevail over all writs of executions against the owner thereof, or chattel mortgages, bills of sale, or conveyances made by him and over all rights of distress for rent reserved upon the land upon which the grain is threshed and the person performing such work of threshing or procuring the same to be done shall be deemed a purchaser for value of the grain which he takes by virtue of this Ordinance. C. O. 60, s. 3, and 1899, c. 11, s. 3.

Returns to department

**4.** *Every person who threshes any grain shall from time to time as he may be required by the commissioner of agriculture send to the department of agriculture such information and returns as may be required from him and in default of his so doing he shall on summary conviction be liable to a penalty not exceeding $25.* 1899, c. 11, s. 4.

## TOBACCO.

*See* USE OF TOBACCO BY MINORS.

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## TREASURY DEPARTMENT.

C.O. 1898, c. 10
15 March, 1899

### An Ordinance Respecting the Treasury Department and the Auditing of the Public Accounts.

THE Lieutenant-Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

#### SHORT TITE.

Short title

**1.** This Ordinance may be cited as *"The Treasury Department Ordinance."* C. O. 10, s. 1.

#### INTERPRETATION.

Interpretation

**2.** In this Ordinance unless the context otherwise requires:

"Treasurer"

(*a*) The expression "treasurer" means the member of the executive council appointed to act as Territorial treasurer;

"Auditor"

(*b*) The expression "auditor" means the Territorial auditor;

"Board"

(*c*) The expression "board" means the treasury board;

"Department'

(*d*) The expression "department" means the treasury department ;

"Public revenue" or "public money"

(*e*) The expressions "public revenue," "revenue," and "public money" respectively mean all revenue and public moneys arising from any source whatever, whether such revenues and moneys belong to the Territories or are held by the Territories or collected or held by officers of the Territories for or on account of or in trust for any province forming part of the Dominion or for the Dominion or for the Imperial Government or for any other party or person;

"Revenue officer"

(*f*) The expression "revenue officer" means any person employed in collecting, managing or accounting for revenue or in carrying into effect any laws relating thereto or in preventing the contravention of any such laws; and so far as regards accounting for and paying over such revenue, the said expression includes any person who has received or has been entrusted with any public money whether such person was regularly employed for such purpose or not. C. O. 10, s. 2.

### ORGANISATION AND FUNCTIONS OF DEPARTMENT.

**Organisation**

3. There shall be a department of the public service of the Territories, to be called "the treasury department" over which the member of the executive council appointed by the Lieutenant Governor under the seal of the Territories to discharge the functions of the Territorial treasurer for the time being shall preside. C. O. 10, s. 3.

**Functions**

4. The department shall have the management and control of the revenue and expenditure of the Territories C. O. 10, s. 4.

### GENERAL REVENUE FUND.

**General revenue fund what to consist of**

5. All revenues whatever however arising or received over which the Legislative Assembly of the Territories has power of appropriation (excepting moneys which may otherwise be specially disposed of by the Legislature) shall form one general revenue fund to be appropriated for the public service of the Territories. C. O. 10, s. 5.

**What charged with**

6. The general revenue fund shall be permanently charged with all costs, charges and expenses incident to the collection, management and receipt thereof, such costs, charges and expenses being subject nevertheless to audit and to legislative review and vote. C. O. 10, s. 6.

**Appropriations from general revenue fund and how made**

7. The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of such general revenue fund to any purpose which has not been first recommended to the said Legislative Assembly by message of the Lieutenant Governor during the session in which such vote, resolution, address or bill is proposed. C. O. 10, [illegible]

### COLLECTION AND MANAGEMENT OF REVENUE.

**Appointment of revenue officers**

8. The Lieutenant Governor in Council may from time to time determine what revenue officers it is necessary to employ and assign their names of office and fix their salaries and

appoint the times and manner in which the same shall be paid; but no such officer shall receive a higher salary than is allowed in his case by any Ordinance of the Legislative Assembly then in force nor shall any such salary be paid unless voted by the said Legislative Assembly. C. O. 10, s. 8.

**Officers employed on any duty to be deemed proper officers for such duty, etc.**

**9.** Every revenue officer employed on any duty or service by the order or with the concurrence of the Lieutenant Governor in Council shall be deemed to be the proper officer for that duty or service; and everything required by any law to be done by, to or with any particular officer designated for that purpose in such law shall (when done by, to or with any person appointed or authorised by the Lieutenant Governor in Council to act in behalf of such particular officer) be deemed to be done by, to or with such particular officer. C. O. 10, s. 9.

**Officers of one branch may be employed in others**

**10.** Any revenue officer employed for any branch of the revenue may be employed for any other branch thereof whenever it is deemed advantageous for the public service so to employ him. C. O. 10, s. 10.

**Hours of attendance**

**11.** The Lieutenant Governor in Council may from time to time appoint the hours of general attendance of the revenue officers at their places of employment and may also appoint the times during such hours or the seasons of the year at which any particular portions of their duties shall be performed; and a notice of the hours of general attendance so appointed shall be constantly posted up in some conspicuous place in such places of employment. C. O. 10, s. 11.

**Books and accounts**

**12.** The Lieutenant Governor in Council may direct any revenue officer to keep any books or accounts for the purpose of obtaining any statistical information touching the resources or public works of the Territories, or other matter of public interest and may authorise any necessary expense for that purpose. C. O. 10, s. 12.

**Oversight and control of officers**

**13.** The Lieutenant Governor in Council may from time to time assign the immediate oversight and control of any revenue officers to such of the public departments as may be deemed convenient; and in default of other assignment such immediate oversight and control shall rest with the treasury department. C. O. 10, s. 13

**Payment of revenue**

**14.** All revenue shall be paid promptly to the treasurer through such officers, banks or parties and in such manner as the Lieutenant Governor in Council may from time to time direct. C. O. 10, s. 14.

**15.** Revenues for the previous fiscal year may be received at the office of the treasurer and placed to the credit of such fiscal year's account up to and inclusive of the fifth day of January in each year. C. O. 10, s. 15.

Revenue of previous year

**16.** The Lieutenant Governor in Council may from time to time appoint the times and modes in which any revenue officer shall account for and pay over the public moneys which come into his hands; and may determine the times, manner and form in which and the officer by whom any licenses on which any duty is payable are to be issued; but such accounts and payments shall be rendered and made by such officers at least once in every three months. C. O. 10, s. 16.

Accounting of revenue officers

**17.** Every revenue officer on receiving public money shall forthwith deposit the same in his name of office in such chartered bank as the Lieutenant Governor in Council may appoint; and no money so deposited shall be paid out again except for the purpose of being paid to the treasurer on the written order or official cheque of the officer so depositing or of his successor; and every such officer shall keep his cash book written up daily; and all his books, accounts and papers shall at all times during office hours be open to the inspection of any person whom the treasurer may authorise to inspect the same; but where such money is received at a place where it is not convenient to pay it into a chartered bank, the Lieutenant Governor in Council may direct it to be paid over in such manner as he may deem expedient. C. O. 10, s. 17

Duty of revenue officer on receiving money

Cash book

## TREASURER AND TREASURY DEPARTMENT

**18.** Any member of the executive council who may be appointed by the Territorial treasurer shall during his term of office have all the powers and duties assigned to him by this Ordinance and such other duties and functions as the Lieutenant Governor in Council may from time to time impose on him. C. O. 10, s. 18.

Members of Executive Council may have powers of treasurer

**19.** There shall be employed on the staff of the treasury department under appointment of the Lieutenant Governor such officers and persons as may be deemed necessary; and their respective duties in all matters not expressly regulated by law shall be such as may from time to time be assigned to them by Order of the Lieutenant Governor in Council or subsidiarily thereto by the treasurer. C. O. 10, s. 19.

Staff of treasury department

**Mode of keeping the public accounts**

**20.** The accounts of the Territories shall be kept in the treasury department in such manner and under such regulations for the fullness and accuracy and as to the measure of oversight and responsibility attached in regard to them to the treasurer and to the auditor or the treasury board repsectively as the Lieutenant Governor by Order in Council or (subject to all such Orders) the treasurer may make from time to time. C. O. 10, s. 20.

**Fiscal year**

**21.** The fiscal year of the Territories shall be the period from the thirty-first day of December in one year to and including the thirty-first day of December in the next year. C. O. 10, s. 21.

**Public accounts**

**22.** As soon as practicable after the close of each fiscal year there shall be prepared under the direction of the treasurer for submission to the Legislative Assembly at its next session a statement of the public accounts for such year showing clearly and fully the several revenues and expenditures of the Territories for the year, the state of the general revenue fund and all trust and special funds under the management of the Territorial Government, and all matters requisite to explain the financial transactions and position of the Territories during and at the close of each year. C. O. 10, s. 22.

**Time of rendering accounts may be altered**

**23.** The Lieutenant Governor in Council may alter the period at or to which any accountant for public money, public officer, corporation or institution is required to render any account or to make any return whenever in his opinion such alteration will facilitate the correct preparation of such statement of the public accounts or of the estimates, anything in any Ordinance to the contrary notwithstanding. C. O. 10, s. 23.

**Estimates**

**Balances to lapse**

**24.** All estimates submitted to the Legislature shall be for the services coming in course of payment during the fiscal year or during such other term as such estimates may expressly purport to cover; and all balances of appropriations remaining unexpended at the close of such fiscal year or other term shall lapse and be written off, except that in case of liabilities incurred during the then expiring fiscal year accounts therefor may be paid up to and including the thirty-first day of January following but not later; and all such payments shall be charged to and form part of the expenditure of that expiring year. C. O. 10, s. 24.

**Estimates, what to contain**

**25.** The estimates shall contain the statutory appropriations which do not require to be voted upon by the Legislative

Assembly year by year and also the respective amounts required for any service in addition to such statutory appropriations or otherwise (as the case may be) for which a vote of the Legislative Assembly is required to authorise the expenditure of the same. C. O. 10, s. 25.

Investment of revenue

**26.** The Lieutenant Governor in Council may from time to time direct the treasurer to invest any portion of the general revenue fund not presently required for expenditure in public securities of the Dominion of Canada or in the debentures of school districts in the Territories; and may afterwards (whenever requisite to meet expenditure) direct him to dispose thereof to that end, in such manner, on such terms and to such amount as may be deemed most for the public advantage. C. O. 10, s. 26.

Expenditure to be by cheque

**27.** All expenditure of public moneys shall be made by official cheque on a chartered bank, such cheque being signed by the treasurer and countersigned by the auditor as hereinafter provided. C. O. 10, s. 27.

Returns to be made yearly by institutions aided from revenue

**28.** All institutions, establishments, associations and bodies sustained or in part aided at public expense shall render yearly on or before the thirty-first day of January for the twelve months ended on the thirty-first day of the preceding month of December, in such form as from time to time may be required by the Lieutenant Governor in Council, a full report of their condition, management and progress and also all statistical returns which may from time to time be required of them by the Lieutenant Governor in Council. C. O. 10, s. 28.

Certain returns from municipalities etc., when required

**29.** The clerk, secretary, overseer or other proper officer of every municipal corporation, village or school district whenever required by the treasurer shall transmit to him a return verified under oath setting forth the amount of real and personal property in the municipality, village or school district according to the then last revised assessment roll or rolls, a true account of all the assets, debts and liabilities of such municipality, village or school district, and all such information and particulars as to the resources, debts and liabilities thereof as he may from time to time require. C. O. 10, s. 29.

Returns, how to be made

**30.** The Lieutenant Governor in Council may from time to time direct through what department or departments the various reports and returns referred to in the last two proceding sections or any thereof shall be rendered for transmission to the treasury department; and in default of other direction the same shall be rendered direct to the treasury department. C. O. 10, s. 30.

TREASURY BOARD, ITS POWERS AND DUTIES.

Treasury board, composition of

**31.** For the purpose of reference and decision in regard to the matters hereafter referred to it a treasury board composed of members of the executive council shall be appointed by the Lieutenant Governor in Council; and the members so appointed shall be the treasury board for the time being. C. O. 10, s. 31.

Illness or absence provided for

**32.** The Lieutenant Governor in Council may in case of illness or absence of any member of the board authorise any other member of the executive council to perform all or any of the duties of the absent member as such. C. O. 10, s. 32.

Minute book

Questions of audit

**33.** The treasury board shall keep a regular minute book in which shall be recorded all its proceedings; any member may bring any question of audit before the board although it may not relate to a department under his charge. C. O. 10, s. 33.

Reports of board

**34.** Upon all matters of importance the board shall report to the treasurer; and when any such report is made any member of the board may record his dissent on the minutes and may submit to the treasurer a minority report. C. O. 10, s. 34.

Regulations to be framed by board

**35.** The treasury board shall frame regulations respecting:

(*a*) The method of book keeping to be used in the several departments of the government of the Territories;

(*b*) The issuing of warrants;

(*c*) The accounting for public moneys and the auditing of accounts thereof;

and shall submit such regulations to the Lieutenant Governor in Council through the treasurer; and from time to time may suggest any amendments which it may deem advisable in such regulations and submit them in like manner; and any Order in Council made on any of these subjects shall have the force of law until revoked or amended (as it may be) by any subsequent Order. C. O. 10, s. 35.

**36.** The treasury board shall examine the yearly statement of the public accounts and submit thereon to the Lieutenant Governor in Council its report for communication to the Legislative Assembly. C. O. 10, s. 36.

Board to examine statement of public accounts

**37.** The treasury board may examine any person on oath on any matter pertinent to any account submitted to it and such oath may be administered by any member of the board. C. O. 10, s. 37.

Persons may be examined on oath

**38.** Any member of the board (duly authorised by it) may apply in chambers to any judge of the supreme court of the Territories for and obtain an order directing any person therein named to appear before the said board at the time and place mentioned in such order and then and there to be examined under oath as to any and all matters within his knowledge relative to any account submitted to the board and to bring with him and produce to the board any document, paper or thing which he may have in his possession relating to such account as aforesaid. C. O. 10, s. 38.

Subpœna to appear before board

Production of papers, etc.

**39.** If any person whose examination is required by the board resides at a distance from the place where its sittings are held or for any other reasonable cause it may be considered proper, on application as in the last preceding section mentioned the judge may order such examination to be taken before an officer or person named in the order who shall by virtue of such order take such evidence and report the same to the board; and such officer or person (being first sworn before some justice of the peace faithfully to execute the duty imposed on him by such order) shall with regard to such examination have the same powers as the board or any member thereof would have if such examination had been had before the board itself. C. O. 10, s. 39.

Commission to take evidence

Powers of commissioner

**40.** If any person so ordered to attend before the treasury board or any officer or person appointed as aforesaid fail without valid excuse to attend as ordered or to produce any document, paper or thing in his possession relating to the subject matter in question or refuse to be sworn or to answer any pertinent question put to him during his examination, such person shall be guilty of an offence and be liable on summary conviction thereof to a penalty of $100 and in default of payment forthwith after conviction to imprisonment for a period not exceeding three months. C. O. 10, s. 40.

Penalty in case witness fails to attend before board or commissioner

PENALTIES AND REMEDIES FOR MALFEASANCE AND DEFAULT

Refusal to transmit accounts

**41.** If any person refuses or neglects to transmit any account, statement or return with the proper vouchers to the officer or department to whom he is lawfully required to transmit the same on or before the day appointed for the transmission thereof, such person shall for every such refusal or neglect be guilty of an offence and be liable on summary conviction thereof to a penalty of $100 and in default of payment forthwith after conviction to imprisonment for a period not exceeding three months. C. O. 10, s. 41.

Persons receiving public moneys and not accounting

How to be dealt with

**42.** Whenever the treasurer has reason to believe that any officer or person has received public money or money applicable to any public purpose and has not paid over or duly applied and accounted for the same he may by a notice in writing to such person (or to his representative in case of death) require that within a time to be named therein such money be paid over or applied and accounted for to the treasurer or the officer to be mentioned in the notice with proper vouchers. C. O. 10, s. 42.

Proceedings where person fails to pay over money, etc., after notice

**43.** If any such person fail to pay over, apply or account for any such money or to transmit such vouchers within the time limited by the notice served on him, the treasurer shall state an account against such person in the matter to which the notice relates charging interest from the date of service thereof which statement or a certificate thereof shall be sufficient *prima facie* evidence to support any proceeding for the recovery of the amount thus shown to be in the hands of the said person as a debt due to the crown. C. O. 10, s. 43.

Judgment may be entered against officer in default

**44.** If at any time it appears clearly by the books of accounts kept by or in the office of any revenue officer or by his written acknowledgment or confession that he has by virtue of his office or employment received any public money amounting to a sum certain which he has failed to pay over to the officer duly appointed to receive the same and in the manner and at the time lawfully appointed, then (upon affidavit of the facts by any officer cognisant thereof and thereunto authorised by the Lieutenant Governor in Council made before a judge of the supreme court) such judge may direct a judgment to be entered therefor in the name of the attorney general against the officer so in default in the supreme court of the Territories in the judicial district in which such officer resides with such costs as the judge may direct upon which execution may be had as in cases of judgment obtained in the ordinary course of procedure in the said court. C. O. 10, s. 44.

**Persons receiving money for specific purpose failing to so apply it**

**45.** If any person has received public money for the purpose of applying it to any specific purpose and has not so applied it within the time or in the manner provided by law or if any person having held any public office and having ceased to hold the same has in his hands any public money received by him as such officer for the purpose of being applied to any specific purpose to which he has not so applied it, such person shall be deemed to have received such money for the crown for the public uses of the Territories and may be notified by the treasurer to pay such sum back to him; and the same may be recovered from him in any manner in which debts to the crown may be recovered and an equal sum may in the meantime be applied to the purpose to which such sum ought to have been applied. C. O. 10, s. 45.

**Officers liable for public moneys lost through malfeasance, etc.**

**46.** If by reason of any malfeasance or of any gross carelessness or neglect of duty by any revenue officer any sum of money be lost to the crown, such officer or person shall be accountable for such sum as if he had collected and received the same; and it may be recovered from him by civil procedure in the supreme court at the suit of the attorney general on proof of such malfeasance, gross carelessness or neglect in like manner as if he had so collected and received it. C. O. 10, s. 46.

**Acceptance by officer of reward for official acts**

**47.** If any revenue officer receive directly or indirectly any money, service, value or thing whatever from any person not legally authorised to pay or allow the same on account of anything done by him in any way relating to his office or employment except what he receives by order or with the permission of the Lieutenant Governor in Council, every such officer shall on proof of the same to the satisfaction of the Lieutenant Governor be dismissed from his office or employment; and if any person (not being an officer duly authorised to pay or allow the same) give, offer or promise any such money he shall for every such gift, offer or promise be guilty of an offence and be liable on summary conviction thereof to a penatly of $400 and in default of payment forthwith after conviction to imprisonment for a period not exceeding six months. C. O. 10, s. 47.

**Books, etc., of revenue officers property of crown**

**48.** All books, papers, accounts and documents of what kind soever kept or used by or in the possession of any revenue officer by virtue of his employment as such shall be deemed to be chattels belonging to her Majesty; and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to her Majesty. C. O. 10, s. 48.

Other legal remedies not affected

**49.** Nothing contained in this Ordinance shall prevent lessen or impair any remedy already given by law to her Majesty or any other party. C. O. 10, s. 49.

## MISCELLANEOUS PROVISIONS.

Inquiries and examinations to be conducted under oath

**50.** Upon all examinations and inquiries made by order of the Lieutenant Governor in Council for ascertaining the truth as to any fact concerning the revenue or the conduct of revenue officers and upon like examinations and inquiries made by any person authorised by the Lieutenant Governor in Council to make the same, any person to be examined as a witness shall deliver his testimony on oath to be administered to him by the person making the examination or inquiry. C. O. 10, s. 50.

Remission of taxes or fees in certain cases

**51.** The Lieutenant Governor whenever he deems it conducive to the public good and when great public inconvenience or great hardship and injustice to individuals would otherwise ensue may remit any tax or fee payable to her Majesty imposed or authorised and relating to any matter within the scope of the Legislative Assembly or any forfeiture or pecuniary penalty imposed for any contravention of the laws relating to the revenue or to the management of any public work producing revenue although any part of such forfeiture or penalty be given by law to the informer or prosecutor or to any other party; and such remission may be made by any general regulation or by special order in any particular case; and may be total or partial unconditional or conditional; but if conditional and the condition be not performed the order made in the case shall be null and void and all proceedings may be had and taken as if it had not been made. C. O 10, s. 51.

Statement of remissions to be furnished

**52.** A detailed statement of all remissions mentioned in the last preceding section shall be annually submitted to the Legislative Assembly within the first fifteen days of the next ensuing session thereof. C. O. 10, s. 52.

Penalties and forfeitures

**53.** The attorney general may sue for and recover in her Majesty's name any penalty or forfeiture imposed by any law relating to the revenue; and the whole of such penalty or forfeiture shall belong to her Majesty for the public uses of the Territories unless the Lieutenant Governor in Council do (as he may if he see fit) allow any portion thereof to the seizing officer or other person by whose information or aid the penalty or forfeiture has been recovered.

(2) The attorney general may direct the discontinuance of any suit for any such penalty or forfeiture by whom or in whose name soever the same has been brought. C. O. 10, s. 53.

Existing appointments to continue

**54.** All commissions and appointments of revenue officers issued or made before the passing of this Ordinance shall continue in force unless and until revoked or altered by competent authority; and the nature of the duties and local extent of the powers of each officer shall (unless and until they be expressly altered and so far as they are not inconsistent with any Ordinance of the Legislative Assembly) remain the same as if granted or made under the authority of this Ordinance subject always to the provisions and enactments thereof; and all bonds which have been given by such officers or persons or their sureties shall remain in full force and effect. C. O. 10, s. 54.

Bonds to remain in full force

TERRITORIAL AUDITOR.

Territorial auditor

**55.** For the complete examination of the public accounts of the Territories and for reporting thereon to the Legislative Assembly the Lieutenant Governor in Council may appoint an officer to be called the Territorial auditor who shall hold office during good behaviour and shall be removable by the Lieutenant Governor on address of the Legislative Assembly; but he may at any time be suspended in office for cause assigned and another person temporarily appointed by the Lieutenant Governor in Council to act as Territorial auditor until the Legislative Assembly at its next session shall have considered and taken action in the premises. C. O. 10, s. 55.

Assistants may be employed

**56.** The Lieutenant Governor in Council shall from time to time appoint any officer, clerk or other person to be employed in the office of the auditor. C. O. 10, s. 56.

Auditor to make rules, etc.

**57.** The auditor shall have power to make from time to time orders and rules for the conduct of the internal business of his office and to prescribe regulations and forms for the guidance of departmental accountants in making up and rendering their accounts for examination:

Subject to approval of treasury board

Provided always that such rules, regulations and forms shall be approved by the treasury board previous to the issue thereof. C. O. 10, s. 57.

Books of record to be kept

**58.** The auditor shall keep proper books of record of all revenues and expenditures of the Territories with an appropriation ledger in which the several appropriations and subappropriations shall be classified, containing an account under separate and distinct heads of every such appropriation or subappropriation (whether permanent or temporary) entering under each head the amounts drawn on account of such appropriation, with the dates and names of the parties to whom payments are made and the services for which they were respectively made. C. O. 10, s. 58.

Uniform system of account books

**59.** A uniform system of account books adapted to the requirements of each department in order to exhibit in a convenient form the whole of the receipts and of payment in respect of each vote shall be prepared by the auditor and submitted to the treasury board for approval before its adoption. C. O. 10, s. 59.

Auditor to check receipts and expenditures

And certify same

**60.** The auditor shall check during each month the receipts and expenditures of the several departments for the calendar month previous from the books of the department wherein the transactions of such are regularly posted with the books of his office; and shall certify in the departmental books referred to the result of such audit and the date of inspection. C. O 10, s. 60.

Auditor to check accounts

**61.** The auditor shall examine, check and audit all accounts of receipts and expenditure of public moneys whether appertaining to the Territories or received or expended by the Territories on account of or in trust for any other party or parties. C. O. 10, s. 61.

Accounts to be rendered in duplicate

Departmental examination

**62.** All accounts against the government of the Territories must be rendered in duplicate; the heads of the several departments or the officers, clerks or other persons charged with the expenditure of public moneys shall respectively audit the details of the accounts of the several services in the first instance and be responsible for the correctness of such examination; but such departmental examination shall not relieve the auditor from finally examining and auditing the accounts as provided for under this Ordinance. C. O. 10, s. 62.

Vouchers after audit, how to be dealt with

**63.** After the correctness of any account has been certified to in the manner prescribed by the treasury board the same shall be handed to the auditor for final examination and audit; and upon the completion of such examination the original voucher shall be handed to the treasurer for retention the other to be returned to that branch of the service under the authority of which the expenditure has been incurred C. O. 10, s. 63.

**Accounts to be examined by auditor**

**64.** Every appropriation account shall be examined by the auditor on behalf of the Legislative Assembly and in the examination of such accounts the auditor shall ascertain:

**His duties as to such accounts**

(*a*) Whether the same is supported by vouchers or proofs of services having been rendered or supplies furnished; and

(*b*) Whether the money being expended is being applied to the purposes for which such grant was intended:

**Proviso as to re-examination of accounts**

Provided always that whenever the said auditor shall be required by the treasurer to make a re-examination of any appropriation account for the purpose of ascertaining whether the expenditure incurred under any such account is supported by proper authority and the payment applied as indicated by the voucher or of proof of payment or that a payment so charged did not occur within the period of the account or was for any reason not properly chargeable against the grant, the auditor shall examine such account with that object and shall report to the treasurer any expenditure which may appear upon such re-examination to have been incurred or applied without proper authority; and if the treasurer should not thereupon see fit to sanction such unauthorised expenditure it shall be regarded as not chargeable to a legislative grant and shall be reported to the Legislative Assembly in the manner herein provided. C. O. 10, s. 64.

**Report to Legislature**

**Method of examination of accounts**

**65.** In conducting the examination of accounts or vouchers relating to the appropriation of the grants for the several services sanctioned by the estimates of the year, by any Ordinance of the Legislative Assembly, Act of the Parliament of Canada or Order of the Governor in Council, the auditor shall test the accuracy of the computations of the several items of such vouchers; and if he be satisfied that the accounts bear evidence that the vouchers have been completely checked, examined and certified as correct in every respect and that they have been allowed and passed by the proper departmental officers he may admit the same as satisfactory evidence of correctness in support of the charges to which they may relate but he shall not be thereby relieved from his responsibility in the matter:

Further examination

Provided always that if the treasurer should desire any vouchers to be examined by the auditor in greater detail, the auditor shall cause such vouchers to be subjected to such a detailed examination as the treasurer may think fit to prescribe. C. O. 10, s. 65.

Preparation of cheques

Entering of same

**66.** The cheques shall be prepared in the treasury department and signed by the treasurer or such member of the executive council as may be appointed to act as treasurer under the provisions of section 18 of this Ordinance and countersigned by the auditor or other officer appointed thereunto duly authorised by Order in Council; and such cheques shall be entered in the books of the audit office; and it shall be the duty of the auditor with an official of the treasury department not later than the tenth day of each month to examine the cheque books of that department for the calendar month previous comparing expenditure with his own appropriation books. C. O. 10, s. 66.

Duties of auditor as to issue of cheques

**67.** It shall be the duty of the auditor (subject to the exceptions hereinafter provided for) to see that no cheque issues for the payment of public money for which there is no direct appropriation or which is in excess of any appropriation or in excess of such sums as may have been deposited with the government of the Territories in trust for any person, persons or corporations. C. O. 10, s. 67.

Certificate of auditor as to authority for expenditure

**68.** No cheque for public money shall issue (except upon the certificate of the auditor that there is legislative authority for the expenditure) save only in the following cases:

Exceptions

On opinion of attorney general

1. If upon any application for a cheque the auditor has reported that there is no legislative authority for issuing it then upon the written opinion of the attorney general that there is such authority, citing it, the treasurer irrespective of the auditor's report may cause the cheque to be prepared;

Extraordinary circumstances

2. If (when the Legislature is not in session) any accident happen to any public work or building which requires an immediate outlay for repair thereof or on any other occasion when any expenditure not foreseen or provided for or insufficiently provided for by the Legislature is urgently and immediately required for the public good, then upon the report of the treasurer that there is no legislative provision or (if any) that the amount is insufficient and of the head of the department having charge of the service in question that the necessity is urgent the Lieutenant Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant

Governor himself authorising the expenditure of the amount estimated to be required which shall be placed to the credit of the account and against which cheques may issue from time to time in the usual form as they may be required;

Objections by auditor

3. If the auditor has refused to certify that a cheque of the treasurer may issue on the ground that the money is not justly due or that it is in excess of the authority granted by the Lieutenant Governor in Council or for any reason other than that there is no legislative authority, then upon a report of the case prepared by the auditor the treasury board shall be the judge of the sufficiency of the auditor's objection and may sustain him or order the issue of the cheque in its discretion;

Treasury board to decide

Auditor to prepare statement of special warrants, etc.

4. It shall be the duty of the auditor in all such cases to prepare a statement of all such legal opinions, reports of council, special warrants and cheques issued without his certificate and of all expenditure incurred in consequence thereof which he shall deliver to the treasurer to be by him presented to the Legislative Assembly at the same time at which the public accounts are presented;

Auditor to countersign all cheques

5. The auditor or any other person authorised to countersign cheques issued by the treasurer, shall before countersigning such cheques satisfy himself that the cheques are authorised under some one or other of the provisions of this Ordinance;

Not to apply to trust funds

6. No part of this section shall apply to moneys deposited with the government of the Territories in trust for any person, persons or corporation. C. O. 10. s. 68.

Payment not to be authorised without certificate of correctness

**69.** No payment shall be authorised by the auditor in respect of services rendered or supplies furnised by any person in connection with any part of the public service of the Territories unless (in addition to any voucher or certificate which may be required in that behalf) the person under whose special charge such part of the public service is certifies to the effect that such services have been rendered or such supplies furnished (as the case may be) and that the charge made is according to contract or (if not covered by contract) is fair and just:

Progressive estimates

Provided however that no cheque shall issue for the payment of any progressive estimate unless the voucher or certificate upon which such estimate is paid contains (so far as practicable) the details of the materials supplied and the services rendered except in the case of a payment as a progressive estimate when if owing to the nature of the work performed or material supplied it is impossible to render a statement in detail an accountable advance may be authorised as partial payment; but under no circumstances is a second advance to be made upon the same service until such first advance is duly accounted for. C. O. 10, s. 69.

Difference between auditor and department

**70.** Should any difference arise between the auditor and any department respecting the appropriations to which any authorised expenditure should be changed, such difference may be referred by the department to the treasury board; and the board shall determine in what manner and to what appropriation or account such expenditure shall be charged. C. O. 10 s. 70.

Other accounts that auditor may be required to examine and audit

**71.** Besides the appropriation accounts of the grants of the Legislature the auditor shall examine and audit (if required to do so by the treasurer and in accordance with any regulations that may be prescribed for his guidance in that behalf by the treasury board) the following accounts, that is to say: The accounts of all receipts of revenues forming the general revenue fund of the Territories, the accounts current with any bank or financial agent of the Territories, and any other public accounts which (though not relating directly to the receipts and expenditures of the Territories) the treasurer or the treasury board may direct. C. O. 10, s. 71.

Accounts under preceding section, by whom to be rendered

**72.** The accounts which by the last preceding section the treasurer is empowered to subject to the examination of the auditor shall be rendered to him by the department or officer directed by the treasurer so to do; and the expression "accountant" (when used in this and the following sections of this Ordinance with reference to any such accounts) shall be taken to mean the officer that may be so required by the treasurer to render the same; and every public officer into whose hands public moneys (in the nature either of revenue or of fees of office) shall be paid by persons bound by law or by regulation to do so or by subordinate or other officers whose duty it may be to pay such moneys wholly or in part into the account of the treasurer or to apply the same to any public service shall (at such time and in such form as the treasury board shall determine) render an account of his receipts and payments to the auditor; and it shall be the duty of the clerk of the executive council to inform the auditor of the appointment of every such officer. C. O. 10, s. 72.

Officers collecting money to account to auditor

Auditor shall submit a statement of his audit to treasurer

**73.** In all cases where the auditor is required by the treasurer to examine and audit any accounts under the last two preceding sections, he shall (on the examination of such accounts being completed) transmit a statement thereof or a report thereon to the treasurer who shall (if he think fit) signify his approval of such accounts; and the auditor on receipt of such approval shall thereupon transmit to the accountant a certificate in a form to be from time to time determined by the treasury board which shall be to such accountant a valid and effectual discharge from so much as he may thereby appear to be discharged from. C. O. 10, s. 73.

**Auditor to have access to books of department**

**74.** In order that all examinations may as far as possible proceed simultaneously with the transactions of the several departments, the auditor shall have free access at all times to the books and other documents relating to the accounts of such departments and may require the several departments concerned to furnish him from time to time or at regular periods as may be directed by the treasurer with accounts of the transactions of such departments respectively up to such times or periods. C. O. 10, s. 74.

**Auditor to report improper detention of moneys**

**75.** Every accoutant on the termination of his charge as such accountant or (in case of a deceased accountant) his representatives shall forthwith pay over any balances of public money then due to the crown in respect of such charge to the public officer authorised to receive the same; and in all cases in which it shall appear to the auditor that balances of public money have been improperly and unnecessarily retained by an accountant he shall report the circumstances of such cases to the treasurer who shall take such measures as to him may seem expedient for the recovery (by legal process or by other lawful ways and means) of the amount of such balance or balances together with interest upon the whole or on such part of such balance or balances as to the treasurer may appear just and reasonable. C. O. 10, s. 75.

**Report to Legislature**

**76.** If the treasurer do not within the time prescribed by this Ordinance present to the Legislative Assembly any report made by the auditor on the appropriation accounts or any other accounts, the auditor shall forthwith present such report. C. O. 10, s. 76.

**Monthly statement of revenue and expenditure**

**77.** The auditor shall cause to be prepared for submission to the treasury board at the earliest possible moment after the end of each month a statement of the revenue and expenditure as shown by his books on account of the various services up to the date named. C. O. 10, s. 77.

# TRUST COMPANIES.

1903, Sess. 1, c. 15
19 June, 1903

## An Ordinance respecting Trust Companies.

[*Assented to June 19, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Short title

**1.** This Ordinance may be cited as "*The Trust Companies' Ordinance.*" 1903, Sess. 1, c. 15, s. 1.

"Trust company" meaning of

**2.** In this Ordinance the expression "trust company" shall mean a company incorporated for the purpose of exercising any of the powers set forth in the schedule to this Ordinance and authorised whether before or after the passing of this Ordinance and whether by special Ordinance or otherwise to carry on its business in the Territories. 1903, Sess. 1, c. 15, s. 2.

Compliance with Ordinance necessary

**3.** No company shall be incorporated or otherwise authorised to execute the office of executor, administrator, trustee, receiver, assignee, guardian of a minor's estate or of committee of a lunatic's estate unless such company has complied with the provisions of this Ordinance. 1903, Sess. 1, c. 15, s. 3.

Company not to be appointed guardian of infant or lunatic

**4.** No company shall be authorised to become or be appointed guardian of the persons of infants or committee of the persons of lunatics. 1903, Sess. 1, c. 15, s. 4.

Appointment of company as trustees, etc.

**5.** Where a trust company is authorised to execute the office of executor, administrator, trustee, assignee, guardian or committee then in case the Lieutenant Governor in Council approves of such company being accepted by the supreme court as a trust company for the purposes of such court the said court or any judge thereof may with the consent of the company appoint such company to exercise any of the said offices in respect of any estate or person under the authority of such court or judge or may grant to such company probate of any will in which such company is named an executor; but no company which has issued or has authority to issue debentures shall be approved as aforesaid.

(2) A trust company so approved of may be appointed to be a sole trustee notwithstanding that but for this Ordinance it would be necessary to appoint more than one trustee and may also be appointed trustee jointly with another person.

(3) Such appointment may be made whether the trustee is required under the provisions of any deed, will or document creating a trust or whether the appointment is under the provisions of any Ordinance respecting trustees and executors and the administration of estates or otherwise.

(4) Notwithstanding any rule of practice or any provision of any Ordinance requiring security it shall not be necessary for the said company to give any security for the due performance of its duty as such executor, administrator, trustee, receiver, assignee, guardian or committee unless otherwise ordered.

(5) The Lieutenant Governor in Council may revoke the approval given under this section and no court or judge after notice of such revocation shall appoint any such company to be an administrator, trustee, receiver, assignee, guardian or committee unless such company gives the like security for the due performance of its duty as would be required from a private person. 1903, Sess. 1, c. 15, s. 5.

**Liability of company acting as trustee**

6. The liability of a trust company to persons interested in an estate held by the company as executor, administrator, trustee, receiver, assignee, guardian or committee as aforesaid shall be the same as if the estate had been held by any private person in the like capacity and its powers shall be the same. 1903, Sess. 1, c. 15, s. 6.

**Investigation of affairs of company**

7. The supreme court if it deems necessary may from time to time appoint a suitable person to investigate the affairs and management of any trust company; and such person shall report thereon to the court and regarding the security afforded to those by or from whom the engagements of the company are held; and the expense of such investigations shall be defrayed by the company; or the court may if it deems necessary examine the officers or directors of the company under oath as to the security aforesaid.

(2) The Lieutenant Governor may also from time to time when he deems it expedient appoint an inspector to examine the affairs of any such company and report to him on the security afforded to those by and for whom its engagements are held as aforesaid; and the expense of the investigation shall be borne by the company. 1903, Sess. 1, c. 15, s. 7.

**Deposit with company of money paid into court**

8. Every court into which money is paid by parties or is brought by order or judgment may by order direct the same to be deposited with any trust company that may agree to accept

the same and the company may pay any lawful rate of interest on such moneys as may be agreed upon and where no special arrangement is made interest shall be allowed by the company at the rate of not less than three per centum annually.

(2) Every trust company may invest any trust moneys in its hands in any securities in which private trustees may by law invest trust moneys and may also invest such moneys in the public stock funds or government securities of any of the provinces of the Dominion or in any securities guaranteed by the United Kingdom of Great Britain and Ireland or by the Dominion or by any of the said provinces or in the bonds or debentures of any municipal corporation or school district in the North-West Territories or in securities which are a first charge on lands held in fee simple in the Territories:

Provided that such company shall not in any case invest the moneys of any trust in securities prohibited by the trust and shall not invest moneys intrusted to it by any court in a class of securities disapproved of by the court. 1903, Sess. 1, c. 15, s. 8.

**Trust companies not to issue debentures**

9. No trust company incorporated under *The Companies Ordinance* shall issue debentures. 1903, Sess. 1, c. 15, s. 9.

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## SCHEDULE.

### Powers Which may be Given to Trust Companies.

To take, receive and hold all estates and property, real and personal, which may be granted, committed, transferred or conveyed to them with their consent upon any trust or trusts whatsoever (not contrary to law) at any time or times, by any person or persons, body or bodies corporate, or by any court in the Territories;

To take and receive on deposit upon such terms and for such remuneration as may be agreed upon deeds, wills, policies of insurance, bonds, debentures or other valuable papers or securities for money, jewelry, plate or other chattel property of any kind and to guarantee the safe keeping of the same;

To act generally as attorney or agent for the transaction of business, the management of estates, the collection of loans, rents, interest, dividends, debts, mortgages, debentures, bonds, bills, notes, coupons and other securities for money;

To act as agent for the purpose of issuing or countersigning certificates of stock, bonds or other obligations of any association or corporation, municipal or other;

To receive, invest and manage any sinking fund therefor on such terms as may be agreed upon;

To accept and execute the offices of executor, administrator, trustee, receiver, assignee or of trustee for the benefit of creditors under any Ordinance of the Legislature of the Territories; and of guardian of any minor's estate, or committee of any lunatic's estate; to accept the duty and act generally in the winding up of estates, partnerships, companies and corporations;

To guarantee any investments made by them as agents or otherwise;

To sell, pledge or mortgage any mortgage or other security or any other real or personal property held by the company from time to time and to make and execute all requisite conveyances and assurances in respect thereof;

To make, enter into, deliver, accept and receive all deeds, conveyances, assurances, transfers, assignments, grants and contracts necessary to carry out the purposes of the said company and to promote the objects and business of the said company;

And for all such services, duties and trusts to charge, collect and receive all proper remuneration, legal, usual and customary costs, charges and expenses. 1903, Sess. 1, c. 15.

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# TRUSTEES.

## An Ordinance respecting Trustees and Executors and the administration of Estates.

1903, Sess. 2, c. 11
21 Nov., 1903

*[Assented to November 21, 1903.]*

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Trustee Ordinance."* 1903, Sess. 2, c. 11, s. 1.

### INTERPRETATION.

Interpretation

**2.** Unless the context otherwise requires the expression "trustee" shall be deemed to include an executor or administrator and a trustee whose trust arises by construction or implication of law as well as an express trustee and shall also include several joint trustees. 1903, Sess. 2, c. 11, s. 2.

## INVESTMENTS.

Trustees may invest trust moneys in certain securities

**3.** Trustees having trust money in their hands which it is their duty or which it is in their discretion to invest at interest shall be at liberty at their discretion to invest the same in any stock, debentures or securities of the government of the Dominion of Canada or of any of the provinces of Canada or any debentures or securities the payment of which is guaranteed by the government of the Dominion of Canada or of any province of Canada or in the debentures of any municipality or school district in the Territories; or in securities which are a first charge on land held in fee simple provided that such investments are in other respects reasonable and proper and such trustees shall also be at liberty at their discretion to call in any trust funds invested in any other securities than as aforesaid and to invest the same in any such stock, debentures or securities aforesaid and also from time to time at their discretion to vary any such investments as aforesaid for others of the same nature; and any such moneys already invested in any such stock, debentures or securities as aforesaid shall be held and taken to have been lawfully and properly invested.

This section to apply to all trustees, etc.

(2) This section shall apply and extend to both present and future trustees. 1903, Sess. 2, c. 11, s. 3.

Additional powers given

**4.** The powers hereby conferred are in addition to the powers conferred by the instrument, if any, creating the trust:

Proviso

Provided that nothing herein contained shall authorise any trustee to do anything which he is in express terms forbidden to do or to omit to do anything which he is in express terms directed to do by the instrument creating the trust. 1903, Sess. 2, c. 11, s. 4.

When trustee not chargeable for lending on insufficient security

**5.** No trustee lending money upon the security of any property shall be chargeable with breach of trust by reason only of the proportion borne by the amount of the loan to the value of the property at the time when the loan was made provided that it appears to the court that in making the loan the trustee was acting upon a report as to the value of the property made by a person whom the trustee reasonably believed to be an able practical surveyor or valuer instructed and employed independently of any owner of the property whether such surveyor or valuer carried on business in the locality where the property is situate or elsewhere and that the amount of the loan does not exceed two-thirds of the value of the property as stated in the report and that the loan was made under the advice of the surveyor or valuer expressed in the report.

(2) This section shall apply to a loan upon any property on which the trustee can lawfully lend and to transfers of existing securities as well as to new securities and to investments made as well before as after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 5.

Trustees lending more than authorised amount

6. Where a trustee has improperly advanced trust money on a mortgage security which would at the time of the investment have been a proper investment in all respects for a less sum than was actually advanced thereon the security shall be deemed an authorised investment for such less sum and the trustee shall only be liable to make good the sum advanced in excess thereof with interest.

(2) This section shall apply to investments made as well before as after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 6.

Liability in case of change of character of investment

7. No trustee shall be liable for breach of trust by reason only of his continuing to hold an investment which has ceased to be an investment authorised by the instrument of trust or by the general law and this provision shall apply to cases arising before or after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 7.

## RIGHTS AND LIABILITIES OF TRUSTEES.

Every trust instrument to be deemed to contain clause for the indemnity and reimbursement of the trustees

8. Every deed, will or other document creating a trust either expressly or by implication shall without prejudice to the clauses actually contained therein be deemed to contain a clause in the words or to the effect following that is to say: "That the trustees or trustee for the time being of the said deed, will or other instrument shall be respectively chargeable only for such moneys, stocks, funds and securities as they shall respectively actually receive notwithstanding their respectively signing any receipt for the sake of conformity and shall be answerable and accountable only for their own acts, receipts, neglects or defaults and not for those of each other nor for any banker, broker or other person with whom any trust moneys or securities may be deposited; nor for the insuffi-

ciency or deficiency of any stocks, funds or securities nor for any other loss unless the same shall happen through their own wilful neglect or default respectively; and also that it shall be lawful for the trustees or trustee for the time being of the said deed, will or other instrument to reimburse themselves or himself or pay or discharge out of the trust premises all expenses incurred in or about the execution of the trusts or powers of the said deed, will or other instrument. 1903, Sess. 2, c. 11, s. 8.

**Appointment of new trustees**

9. Where a trustee, either original or substituted and whether appointed by the court or otherwise, dies or desires to be discharged from or refuses or becomes unfit or incapable to act in the trusts or powers in him reposed before the same have been fully discharged and performed it shall be lawful for the person or persons nominated for that purpose by the deed, will or other instrument creating the trust, if any, or if there be no such person or no such person able and willing to act, then for the surviving or continuing trustees or trustee for the time being or the acting executors or executor or administrators or administrator of the last surviving and continuing trustee or for the last retiring trustee by writing to appoint any other person or persons to be a trustee or trustees in place of the trustee or trustees dying or desiring to be discharged or refusing or becoming unfit or incapable to act as aforesaid; and so often as any new trustee or trustees is or are so appointed as aforesaid all the trust property, if any, which for the time being is vested in the surviving or continuing trustees or trustee or in the heirs, executors or administrators of any trustees or trustee shall with all convenient speed be conveyed, assigned and transferred so that the same may be legally and effectually vested in such new trustee or trustees either solely or jointly with the surviving or continuing trustees or a surviving or continuing trustee as the case may require; and every new trustee to be appointed as aforesaid as well before as after such conveyance, assignment or transfer as aforesaid and also every trustee appointed by the court either before or after the passing of this Ordinance shall have the same powers, authorities and discretions and shall in all respects act as if he had originally been nominated a trustee by the deed, will or other instrument creating the trust.

(2) On the appointment of a new trustee for the whole or any part of the trust property:

(a) The number of trustees may be increased; and (*b*) A separate set of trustees may be appointed for any part of the trust property held on trusts distinct from those relating to any other part or parts of the trust property notwithstanding that no new trustees or trustee are or is to be appointed for other parts of the trust property and any existing trustee may be appointed or remain one of such separate set of trustees; or if only one trustee was originally appointed then one separate trustee may be so appointed for any such part of the trust property; and

(*c*) It shall not be obligatory to appoint more than one new trustee where only one trustee was originally appointed or to fill up the original number of trustees where more than two trustees were originally appointed; but, except where only one trustee was originally appointed, a trustee shall not be discharged under this section from his trust unless there will be at least two trustees to perform the trust; and

(*d*) Any assurance or thing requisite for vesting the trust property or any part thereof jointly in the persons who are the trustees shall be executed or done.

(3) Every new trustee so appointed, as well before as after all the trust property becomes by law or by assurance or otherwise vested in him shall have the same powers, authorities and discretions and may in all respects act as if he has been originally appointed a trustee by the instrument, if any, creating the trust.

(4) The provisions of this section relative to a trustee who is dead include the case of a person nominated trustee in a will but dying before the testator, and those relative to a continuing trustee include a refusing or retiring trustee if willing to act in the execution of the provisions of this section.

(5) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(6) This section applies to trusts created either before or after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 9.

**Retirement of trustee**

**10.** Where there are more than two trustees if one of them by deed declares that he is desirous of being discharged from the trust and if his co-trustees and such other person, if any, as is empowered to appoint trustees by deed consent to the discharge of the trustee and to the vesting in the co-trustees alone of the trust property, then the trustee desirous of being discharged shall be deemed to have retired from the trust and shall by the deed be discharged therefrom under this Ordinance without any new trustee being appointed in his place.

(2) Any assurance or thing requisite for vesting the trust property in the continuing trustees alone shall be executed or done.

(3) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to any provisions therein contained.

(4) This section applies to trusts created either before or after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 10.

**Vesting of trust property in new or continuing trustees without conveyance**

**11.** Where an instrument by which a new trustee is appointed to perform any trust contains a declaration by the appointor to the effect that any estate or interest in any land subject to the trust or in any chattel so subject or the right to recover and receive any debt or other thing in action so subject shall vest in the persons who by virtue of such instrument become and are the trustees for performing the trust, that declaration shall without any conveyance or assignment but subject to the provision of any Act or Ordinance respecting the registration of titles to lands operate to vest in those persons as joint tenants and for the purpose of the trust that estate, interest or right.

(2) Where an instrument by which a retiring trustee is discharged under this Ordinance contains such a declaration as is in this section mentioned by the retiring and continuing trustees and by the other person, if any, empowered to appoint trustees that declaration shall without any conveyance or assignment but subject as aforesaid operate to vest in the continuing trustees alone as joint tenants and for the purposes of the trust, the estate, interest or right to which the declaration relates.

(3) This section does not extend to any share, stock, annuity or property only transferable in books kept by a company or other body or in manner prescribed by or under an Ordinance of the Legislative Assembly of the Territories.

(4) For the the purpose of registration of an instrument the person or persons making the declaration shall be deemed the conveying party or parties and the conveyance shall be deemed to be made by him or them under a power conferred by this Ordinance. 1903, Sess. 2, c. 11, s. 11.

## PURCHASE AND SALE.

Power of trustee for sale to sell by auction, etc.

**12.** Where a trust for sale or a power of sale of property is vested in a trustee he may sell or concur with any other person in selling all or any part of the property either subject to prior charges or not and either together or in lots, by public auction or by private contract subject to any such conditons respecting title or evidence of title or other matter as the trustee thinks fit with power to vary any contract for sale and to buy in at any auction or to rescind any contract for sale and to resell without being answerable for any loss.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument creating the trust or power and shall have effect subject to the terms of that instrument and to the provisions therein contained. 1903, Sess. 2, c. 11, s. 12.

Power to sell subject to depreciatory conditions

**13.** No sale made by a trustee shall be impeached by any beneficiary upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it also appears that the consideration for the sale was thereby rendered inadequate.

(2) No sale made by a trustee shall after the execution of the conveyance be impeached as against the purchaser upon the ground that any of the conditions subject to which the sale was made may have been unnecessarily depreciatory unless it appears that the purchaser was acting in collusion with the trustee at the time when the contract for sale was made.

(3) No purchaser upon any sale made by a trustee shall be at liberty to make any objection against the title upon the ground aforesaid. 1903, Sess. 2, c. 11, s. 13.

Fee simple estates of bare trustees to vest in their personal representatives

**14.** Upon the death of a bare trustee of any corporeal or incorporeal hereditament of which such trustee was seized in fee simple such hereditaments shall vest in the legal personal representative from time to time of such trustee. 1903, Sess. 2, c. 11, s. 14.

Conveyances by married woman as bare trustee

**15.** Where any freehold hereditament is vested in a married woman as bare trustee she may convey or surrender the same as if she were a *feme sole* and without her husband joining in the conveyance. 1903, Sess. 2, c. 11, s. 15.

Receipts of trustees to be effectual discharges

**16.** The *bona fide* payment of any money to and the receipt thereof by any person to whom the same is payable upon any express or implied trust or for any limited purpose and such payment to and receipt by the survivors or survivor of two or more mortgagees or holders or the executors or administrators of such survivor or their or his assigns shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof unless the contrary is expressly declared by the instrument creating the trust or security. 1903, Sess. 2, c. 11, s. 16.

### VARIOUS POWERS AND LIABILITIES.

**Appointment of agents by trustees for certain purposes**

**17.** It shall be lawful for a trustee to appoint an advocate to be his agent to receive and give a discharge for any money or any valuable consideration of property receivable by such trustee under the trust; and no trustee shall be chargeable with breach of trust by reason only of his having made or concurred in making any such appointment:

Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not been enacted in case of permitting such money, valuable consideration or property to remain in the hands or under the control of the advocate for a period longer than is reasonably necessary to enable the solicitor to pay or transfer the same to the trustee.

(2) It shall be lawful for a trustee to appoint a chartered bank or advocate to be his agent to receive and give a discharge for any money payable to such trustee under or by virtue of a policy of assurance or otherwise; and no trustee shall be chargeable with a breach of trust by reason only of his having made or concurred in making any such appointment:

Provided that nothing herein contained shall exempt a trustee from any liability which he would have incurred if this section had not been enacted in case he permits such money to remain in the hands or under the control of the bank or advocate for a period longer than is reasonably necessary to enable him to pay the same to the trustee. 1903, Sess. 2, c. 11, s. 17.

**Powers of trustees to insure trust**

**18.** It shall be lawful for but not obligatory upon a trustee to insure against loss or damage by fire any building or other insurable property to any amount (including the amount of any insurance already on foot) not exceeding three equal fourth parts of the full value of such building or property and to pay the premiums for such insurance out of the income thereof or out of the income of any other property subject to the same trusts without obtaining the consent of any person entitled wholly or partly to such income.

(2) This section shall not apply to any building or property which a trustee is bound forthwith to convey absolutely to any *cestui que trust* upon being requested to do so. 1903, Sess. 2, c. 11, s. 18.

**Trustee committing breach of trust at instigation of beneficiary**

**19.** Where a trustee has committed a breach of trust at the instigation or request or with the consent in writing of a beneficiary the court may if it thinks fit and notwithstanding that the beneficiary is a married woman entitled for her separate use whether with or without a restraint upon anticipation make such order as to the court seems just for impounding all or any part of the interest of the beneficiary in the trust estate by way of indemnity to the trustee or person claiming through him. 1903, Sess: 2, c. 11, s. 19.

**Power of trustee to give receipts**

**20.** The receipt in writing of any trutsee for any money, securities or other personal property or effects payable, transferable or deliverable to him under any trust or power shall be a sufficient discharge for the same and shall effectually exonerate the person paying, transferring or delivering the same from seeing to the application or being answerable for any loss or misapplication thereof.

(2) This section applies to trusts created either before or after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 20.

**Power for executors and trustees to compound, etc**

**21.** A trustee or two or more trustees acting together or a sole acting trustee where by the instrument, if any, creating the trust a sole trustee is authorised to execute the trusts and powers thereof may if and as he or they may think fit accept any composition or any security real or personal for any debt or for any property real or personal claimed and may allow any time for payment for any debt and may compromise, compound, abandon, submit to arbitration or otherwise settle any debt, account, claim or thing whatever relating to the testator's or intestate's estate or to the trust and for any of those purposes may enter into, give, execute and do such agreements, instruments of composition or arrangement, releases and other things as to him or them seem expedient without being responsible for any loss occasioned by any act or thing so done by him or them in good faith.

(2) This section applies only if and as far as a contrary intention is not expressed in the instrument, if any, creating the trust and shall have effect subject to the terms of that instrument and to the provisions therein contained.

(3) This section applies to executorships, administratorships and trusts constituted or created either before or after the passing of this Ordinance. 1903, Sess. 2, c. 11, s. 21.

Powers of two or more trustees

**22.** Where a power or trust is given to or vested in two or more trustees jointly then unless the contrary is expressed in the instrument, if any, creating the power or trust the same may be exercised or performed by the survivor or survivors of them for the time being. 1903, Sess. 2, c. 11, s. 22.

Exoneration of trustees in respect of certain powers of attorney

**23.** A trustee acting or paying money in good faith under or in pursuance of any power of attorney shall not be liable for any such act or payment by reason of the fact that at the time of the payment or act the person who gave the power of attorney was dead or had done some act to avoid the power if this fact was not known to the trustee at the time of his so acting or paying.

(2) Nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the trustee. 1903, Sess. 2, c. 11, s. 23.

### MAINTENANCE OF INFANTS.

In case property held in trust for infant, trustees may apply income for maintenance of infant

**24.** In all cases where any property is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age it shall be lawful for such trustees at their sole discretion to pay to the guardians, if any, of such infant or otherwise to apply for or towards the maintenance or education of such infant the whole or any part of the income to which such infant may be entitled in respect of such property whether there be any fund applicable to the same purpose or any other person bound by law to provide for such maintenance or education or not; and such trustees shall accumulate all the residue of such income by way of compound interest by investing the same and the resulting income thereof from time to time in proper securities for the benefit of the person who shall ultimately become entitled to the property from which such accumulation shall have arisen:

Provided always that is shall be lawful for such trustees at any time if it shall appear to them expedient to apply the whole or any part of such accumulations as if the same were part of the income arising in the then current year. 1903, Sess. 2, c. 11, s. 24.

Property held in trust for infants may be sold by leave of a judge and proceeds thereof applied for maintenance and education of such infants

Application and investment of moneys so realised

**25.** In all cases where any property either real or personal is held by trustees in trust for an infant either absolutely or contingently on his attaining the age of twenty-one years or on the occurrence of any event previously to his attaining that age and where the income arising from such property is insufficient for the maintenance and education of such infant it shall be lawful for such trustees by leave of a judge of the supreme court to be obtained in a summary manner to sell and dispose of any portion of such real or personal property and to pay to the guardians, if any, of such infant or otherwise to apply for or towards the maintenance or education of such infant the whole or any part of the money arising from such sale as aforesaid; and in the event of the whole of the money arising from any sale of the real or personal property as aforesaid not being immediately required for the maintenance and education of such infant then the said trustees shall invest the surplus moneys and the resulting income therefrom from time to time in proper securities and shall apply such moneys and the proceeds thereof from time to time for the education and maintenance of the said infant and shall hold all the residue of the moneys and interest thereon not required for the education and maintenance of such infant as aforesaid for the benefit of the person who shall ultimately become entitled to the property from which such moneys and interest have arisen. 1903, Sess. 2, c. 11, s. 25.

Distribution of assets under trust

Deeds for benefit of creditors or of the assets of a testator or intestate after notice given by trustee, assignee, executor or administrator

**26.** Where a trustee or assignee acting under the trusts of a deed or assignment for the benefit of creditors generally or a particular class or classes of creditors where the creditors are not designated by name therein or an executor or an administrator has given such or the like notices as in the opinion of the court in which such trustee, assignee, executor or administrator is sought to be charged, would have been given by the supreme court in an action for the execution of the trusts of such deed or assignment or an administration suit, as the case may be, for creditors, and others to send in to such trustee, assignee, executor or administrator their claims against the person for the benefit of the creditors of whom such deed or assignment is made or the estate of the testator or intestate, as the case may be, the trustee, assignee, executor or administrator shall at the expiration of the time named in the said notices or the last of the said notices for sending in such claims be at liberty to distribute the proceeds of the trust estate or the assets of the testator or intestate, as the case may be, or any part thereof amongst the parties entitled thereto having regard to the claims of which the trustee, assignee, executor or administrator has then notice and shall not be liable for the proceeds of the trust estate or assets, as the case may be, or any part thereof so distributed to any person of whose claim the trustee, assignee, executor or administrator had not notice at the time of the distribution thereof or a part thereof, as the case may be; but nothing in this Ordinance contained shall prejudice the right of any creditor or claimant to follow the proceeds of the trust estate or assets, as the case may be, or any part thereof into the hands of the person or persons who may have received the same respectively. 1903, Sess. 2, c. 11, s. 26.

### PAYMENT INTO COURT BY TRUSTEES.

**Payment into court by trustees**

**27.** Trustees or the majority of trustees having in their hands or under their control money or securities belonging to a trust or to the estate of a deceased person may pay the same into the supreme court; and the same shall subject to the rules of court be dealt with according to the orders of the supreme court.

(2) The receipt or certificate of the proper officer shall be a sufficient discharge to trustees for the money or securities so paid into court.

(3) Where any moneys or securities are vested in any persons as trustees and the majority are desirous of paying the same into court but the concurrence of the other or others cannot be obtained the supreme court may order the payment into court to be made by the majority without the concurrence of the other or others and where any such moneys or securities are deposited with any banker, broker or other depositary the court may order payment or delivery of the moneys or securities to the majority of the trustees for the purpose of payment into court and every transfer payment and delivery made in pursuance of any such order shall be valid and take effect as if the same had been made on the authority or by the act of all the persons entitled to the moneys and securities so transferred, paid or delivered. 1903, Sess. 2, c. 11, s. 27.

**Relief of trustees committing technical breach of trust**

**28.** If in any proceeding affecting trustees or trust property it appears to the court that a trustee whether appointed by the court or by an instrument in writing or otherwise or that any person who in law may be held to be fiduciarily responsible as a trustee is or may be personally liable for any breach whether the transaction alleged or found to be a breach of trust occurred before or after the passing of this Ordinance but has acted honestly and reasonably and ought fairly to be excused for the breach of trust and for omitting to obtain the directions of the court in the matter in which he committed such breach then the court may relieve the trustee either wholly or partly from personal liability for the same. 1903, Sess. 2, c. 11, s. 28.

## RIGHTS AND LIABILITIES OF EXECUTORS AND ADMINISTRATORS.

Actions by executors and administrators for torts

**29.** The executors or administrators of any deceased person may maintain an action for all torts or injuries to the person or to the real or personal estate of the deceased except in cases of libel and slander in the same manner and with the same rights and remedies as the deceased would if living have been entitled to do; and the damages when recovered shall form part of the personal estate of the deceased; but such action shall be brought within one year after his decease. 1903, Sess. 2, c. 11, s. 29.

Actions against executors and administrators for torts

**30.** In case any deceased person committed a wrong to another in respect of his person or of his real or personal property except in cases of libel and slander the person so wronged may maintain an action against the executors or administrators of the person who committed the wrong; but such action shall be brought within one year after the decease. 1903, Sess. 2, c. 11, s. 30.

Damages in actions under two preceding sections

**31.** In estimating the damages in any action under either of the next preceding two sections the benefit, gain, profit or advantage which in consequence of or resulting from the wrong committed may have accrued to the estate of the person who committed the wrong shall be taken into consideration and shall form part or may constitute the whole of the damages to be recovered and whether or not any property or the proceeds of value of property belonging to the person bringing the action or to his estate has or have been appropriated by or added to the estate or moneys of the person who committed the wrong. 1903, Sess. 2, c. 11, s. 31.

Executors or administrators of a lessor may distrain for arrears

**32.** The executors or administrators of any lessor or landlord may distrain upon the lands demised for any term or at will for the arrears of rent due to such lessor or landlord in his lifetime in like manner as such lessor or landlord might have done if living. 1903, Sess. 2, c. 11, s. 32.

**Such arrears of rent may be distrained for within six months after determination of the lease**

**33.** Such arrears may be distrained for at any time within six months after the determination of the term or lease and during the continuance of the possession of the tenant from whom the arrears became due; and the law relating to distresses for rent shall be applicable to the distresses so made as aforesaid. 1903, Sess. 2, c. 11, s. 33.

**Representatives of deceased joint contractors liable although the other joint contractors be living**

**34.** In case any one or more joint contractors, obligors or partners die the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several and this notwithstanding there may be another person liable under such contract, obligation or promise still living and an action pending against such person; but the property and effects of stockholders in chartered banks or the members of other incorporated companies shall not be liable to a greater extent than they would have been if this section had not been passed. 1903, Sess. 2, c. 11, s. 34.

**Devisee in trust may raise money by sale or mortgage to satisfy charges notwithstanding want of express power in the will**

**35.** Where by any will coming into operation before or after the passing of this Ordinance a testator charges his real estate or any specific portion thereof with the payment of his debts or with the payment of any legacy or other specific sum of money and devises the estate so charged to any trustee or trustees for the whole of his estate or interest therein and does not make any express provision for the raising of such debt, legacy or sum of money out of such estate the said trustee or trustees notwithstanding any trusts actually declared by the testator may raise such debt, legacy or money as aforesaid by a sale and absolute disposition by public auction or private contract of the said real estate or any part thereof or by a mortgage of the same or partly in one mode and partly in the other and a mortgage so executed may reserve such rate of interest and fix such period or periods of repayment as the person or persons executing the same think proper. 1903, Sess. 2, c. 11, s. 35.

**Power given by last section extended to survivors devisees, etc.**

**36.** The powers conferred by the next preceding section shall extend to all and every the person or persons in whom the estate devised is for the time being vested by survivorship, descent or devise or to any person or persons appointed under any power in the will or by the supreme court to succeed to the trusts created by the will as aforesaid. 1903, Sess. 2, c. 11, s. 36.

Purchasers, etc., not bound to inquire as to exercise of powers

**37.** Purchasers or mortgagees shall not be bound to inquire whether the powers conferred by the preceding two sections of this Ordinance or any of them have been duly and correctly exercised by the person or persons acting in virtue thereof. 1903, Sess. 2, c. 11, s, 37.

Directions to sell, etc., may be exercised by executor when no other person is appointed to exercise same

**38.** Where there is in any will or codicil of any deceased person whether such will has been made or such person has died before or after the passing of this Ordinance any direction whether express or implied to sell, dispose of, appoint, mortgage, incumber or lease any real estate and no person is by the said will or some codicil thereto or otherwise by the testator appointed to execute and carry the same into effect the executor or executors, if any, named in such will or codicil shall and may execute and carry into effect every such direction to sell, dispose of, appoint, incumber or lease such real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if the executor or executors of the testator were appointed by the testator to execute and carry the same into effect. 1903, Sess. 2, c. 11, s. 38.

Administrator with will annexed may exercise power of sale given to the executor

**39.** Where there is in any will or codicil thereto of any deceased person whether such will has been made or such person has died before or after the passing of this Ordinance any power to any executor or executors in such will to sell, dispose of, appoint, mortgage, incumber or lease any real estate or any estate or interest therein whether such power is express or arises by implication and where from any cause letters of administration with such will annexed have been by the supreme court committed to any person and such person has given the required security such person shall and may exercise every such power and sell, dispose of, appoint, mortgage, incumber or lease such real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect for all purposes as the said executor or executors might have done. 1903, Sess. 2, c. 11, s. 39.

Or when no one named in the will to execute powers of sale, etc.

**40.** Where there is in any will or codicil thereto of any deceased person whether such will has been made or such person has died before or after the passing of this Ordinance any power to sell, dispose of, appoint, mortgage, incumber or lease any real estate or any estate or interest therein whether such power is express or arises by implication and no person is by the said will or some codicil thereto or otherwise by the testator appointed to execute such power and letters of administration with such will annexed have been by the supreme court committed to any person and such person has given the required security before mentioned such person shall and may exercise every such power and sell, dispose of, appoint, mortgage, incumber or lease such real estate and any estate or interest therein in as full, large and ample a manner and with the same legal effect as if such last named person had been appointed by the testator to execute such power. 1903, Sess. 2, c. 11, s. 40.

Executors, etc., may convey in pursuance of a contract for sale made by deceased

**41.** Where any person has entered into a contract in writing for the sale and conveyance of real estate or any estate or interest therein and such person has died intestate or without providing by will for the conveyance of such real estate or estate or interest therein to the person entitled or to become entitled to such conveyance under such contract then if the deceased would be liable to execute a conveyance were he alive the executor, administrator or administrator with the will annexed, as the case may be, of such deceased person shall make and give to the person entitled to the same a good and sufficient conveyance or conveyances of such estates and of such nature as the said deceased if living would be liable to give and such conveyances shall be as valid and effectual as if the deceased were alive at the time of the making thereof and had executed the same but shall not have any further validity. 1903, Sess. 2, c. 11, s. 41.

Duties and liabilities of an executor and administrator acting under the powers of this Ordinance

**42.** Every executor, administrator and administrator with the will annexed shall as respects the additional powers vested in him by this Ordinance and any money or assets by him received in consequence of the exercise of such powers be subject to all the liabilities and compellable to discharge all the duties of whatsoever kind which as respects the acts to be done by him under such powers would have been imposed upon an executor or other person appointed by the testator to execute the same or in case of there being no such executor or person would have been imposed by law or by the supreme court or a judge thereof. 1903, Sess. 2, c. 11, s. 42.

Powers given by this Ordinance to two or more survivors

**43.** Where there are several executors, administrators or administrators with the will annexed and one or more of them die the powers hereby created shall vest is the survivor or survivors. 1903, Sess. 2, c. 11, s. 43.

In case of deficiency of assets debts to rank *pari passu*

**44.** On the administration of the estate of a deceased person in case of the deficiency of assets, debts due to the crown and to the executor or administrator of the deceased person and debts to others including therein respectively debts by judgment or order and other debts of record, debts by specialty, simple contract debts and such claims for damages as by statute are payable in like order of administration as simple contract debts shall be paid *pari passu* and without any preference or priority of debts of one rank or nature over those of another; but nothing herein contained shall prejudice any lien existing during the lifetime of the debtor on any of his real or personal estate. 1903, Sess. 2, c. 11, s. 44.

Not to affect lien

45. In case the executor or administrator gives notice in writing referring to this section of his intention to avail himself thereof to any creditor or other person of whose claims against the estate he has notice or to the advocate or agent of such creditor or other person that he the executor or administrator rejects or disputes the claim it shall be the duty of the claimant to commence his action in respect of the claim within six months after the notice is given in case the debt or some part thereof is due at the time of the notice or within three months from the time the debt or some part thereof falls due if no part thereof is due at the time of the notice and in default the claim shall be forever barred.

If claim is rejected and notice given an action must be brought within a certain period

(2) Unless such creditor or other person within ten days after the receipt of such notice notifies the executor or administrator that he withdraws his claim such executor or administrator may if he thinks fit apply to a judge of the supreme court for an originating summons calling upon such creditor or other person to establish his claim and upon the return of such summons the judge may allow or bar the claim or make such other order as to him may seem meet with or without costs against either party. 1903, Sess. 2, c. 11, s. 45.

46. Where an executor or administrator liable as such to the rents, covenants or agreements contained in any lease or agreement for a lease granted or assigned to the testator or intestate whose estate is being administered has satisfied all such liabilities under the said lease or agreement for a lease as have accrued due and been claimed up to the time of the assignment hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the lessee to be laid out on the property demised or agreed to be demised although the period for laying out the same may not have arrived and has assigned the lease or agreement for the lease to a purchaser thereof he shall be at liberty to distribute

As to liability of executor or administrator in respect of covenants, etc., in leases the residuary estate of the deceased to and among the parties entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said lease or agreement for a lease; and the executor or administrator so distributing the residuary estate shall not after having assigned the said lease or agreement for a lease and having where necessary set apart such sufficient fund as aforesaid be personally liable in respect of any subsequent claim under the said lease or agreement for a lease; but nothing herein contained shall prejudice the right of the lessor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or amongst whom the said assets may have been distributed. 1903, Sess. 2, c. 11, s. 46.

As to liability of executor in respect of rents, etc., in conveyances on rent, charges, etc.

**47.** In like manner where an executor or administrator liable as such to the rent, covenants or agreements contained in any conveyance or rent-charge whether any such rent be by limitation of use, grant or reservation or agreement for such conveyance granted or assigned to or made and entered into with the testator or intestate whose estate is being administered has satisfied all such liabilities under the said conveyance or agreement for a conveyance as may have accrued due and been claimed up to the time of the conveyance hereinafter mentioned and has set apart a sufficient fund to answer any future claim that may be made in respect of any fixed and ascertained sum covenanted or agreed by the grantee to be laid out on the property conveyed or agreed to be conveyed although the period for laying out the same may not have arrived and has conveyed such property or assigned the said agreement for such conveyance as aforesaid to a purchaser thereof he shall be at liberty to distribute the residuary estate of the deceased to and amongst the parties entitled thereto respectively without appropriating any part or any further part, as the case may be, of the estate of the deceased to meet any future liability under the said conveyance or agreement for a conveyance; and the executor or administrator so distributing the residuary estate shall not after having made or executed such conveyance or assignment and having where necessary set apart such sufficient fund as aforesaid be personally liable in respect of any subsequent claim under the said conveyance or agreement for conveyance; but nothing herein contained shall prejudice the right of the grantor or those claiming under him to follow the assets of the deceased into the hands of the person or persons to or among whom the said assets may have been distributed. 1903, Sess. 2, c. 11, s. 47.

### SUMMARY APPLICATION TO COURT FOR ADVICE.

Trustees, etc., may apply for advice in management of trust property

**48.** Any trustee, guardian, executor or administrator shall be at liberty without the institution of an action to apply in court or in chambers in the manner prescribed by rules of court for the opinion, advice or direction of a judge of the supreme court on any question respecting the management or administration of the trust property or the assets of a testator or intestate.

(2) The trustee, guardian, executor or administrator acting upon the opinion, advice or direction given by the judge shall be deemed so far as regards his own responsibility to have discharged his duty as such trustee, guardian, executor or administrator in the subject matter of the said application; but this provision shall not extend to indemnify a trustee, executor or administrator in respect of any act done in accordance with such opinion, advice or direction as aforesaid if the trustee, executor or administrator has been guilty of any fraud or wilful concealment or misrepresentation in obtaining such opinion, advice or direction. 1903, Sess. 2, c. 11, s. 48.

### ALLOWANCE TO TRUSTEES, ETC.

Allowance to trustees

**49.** Any trustee under a deed, settlement or will, any executor or administrator, any guardian appointed by any court and any testamentary guardian or other trustee howsoever the trust is created shall be entitled to such fair and reasonable allowance for his care, pains and trouble and his time expended in and about the trust estate as may be allowed by the supreme court or a judge thereof or by any clerk thereof to whom the matter may be referred. 1903, Sess. 2, c. 11, s. 49.

Allowance to be made although the estate not before the court

**50.** A judge of the supreme court may on application to him for the purpose settle the amount of such compensation although the trust estate is not before the court in any action. 1903, Sess. 2, c. 11, s. 50.

Act to apply to existing as well as future trusts

**51.** Compensation may be allowed in the case of any trust heretofore created as well as in any to be hereafter created. 1903, Sess. 2, c. 11, s. 51.

Judge may order an allowance to be made to executor or administrator out of the estate for his trouble

**52.** The judge may allow to the executor or trustee or administrator acting under a will or letters of administration a fair and reasonable allowance for his care, pains and trouble and his time expended in or about the executorship, trustee-

and in any case where the court or judge shall so direct an inquiry into the administration by a judicial trustee of any trust or into any dealing or transaction of a judicial trustee shall be made in the prescribed manner. 1903, Sess. 2, c. 11, s. 56.

# UNIFORM CONDITIONS OF FIRE INSURANCE.

*See* FIRE INSURANCE POLICY.

# UNIVERSITY.

1903, Sess. 2, c. 26 21 Nov., 1903

## An Ordinance to establish and incorporate a University for the North-West Territories.

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**Short title**

**1.** This Ordinance may be cited as *"The University Ordinance."* 1903, Sess. 2, c. 26, s. 1.

### CORPORATION.

**The corporation**

**2.** A university consisting of a chancellor, vice chancellor, senate and convocation is hereby established in the North-West Territories as a body politic and corporate by such name as may hereafter be determined by the Legislative Assembly. 1903, Sess. 2, c. 26, s. 2.

**Power to hold property**

**3.** The said corporation may acquire by purchase or in any other manner and hold for the purposes of the said university any and all property real and personal of every nature and kind whatsoever and subject to the terms of any gift, devise or bequest of any property to the university, shall have power to mortgage, sell, transfer or otherwise dispose of all its property real or personal. 1903, Sess. 2, c. 26, s. 3.

### VISITOR.

**Visitor**

**4.** The Lieutenant Governor of the Territories shall be the visitor of the university with authority to do all those acts which pertain to visitors as to such Lieutenant Governor shall seem meet. 1903, Sess. 2, c. 26, s. 4.

### CHANCELLOR.

**5.** The chancellor of the said university shall be elected by the members of convocation in the manner hereinafter mentioned and shall hold office for three years and until his successor is elected.

**Election and term of office of chancellor**

(2) The chancellor first elected shall hold office until two years from the first Wednesday of October next following his election and until his successor is elected.

(3) The ordinary triennial election of chancellor shall take place on the first Wednesday in October in any year in which an election is required.

(4) In case of vacancy in the office of chancellor by death, resignation or any other cause before the expiration of his term of office then at a special election to be holden for that purpose (of which election notice shall be given in such manner as may be provided by statute of the senate) the members of convocation entitled to vote shall elect a chancellor for the remainder of the term in which such death, resignation or other avoidance may have happened. 1903, Sess. 2, c. 26, s. 5.

**Vacancy in the office of chancellor, how filled**

### VICE CHANCELLOR.

**6.** The vice chancellor of the university shall be elected by the members of the senate from among themselves and shall hold office for three years and until his successor is appointed.

**Vice chancellor**

(2) The ordinary triennial election of vice chancellor shall take place at the first meeting of the senate in any academic year in which such election may be required and the registrar shall at least one month before the meeting notify all the members of the senate that the election is to be held.

(3) In case of vacancy in the office of vice chancellor by death, resignation or any other cause before the expiration of his term of office the members of the senate shall at a meeting to be held by them for that purpose as soon as conveniently may be of which notice shall be given in such manner as may be provided by statute of the senate elect one other of the said members of the senate to be vice chancellor for the remainder of the term. 1903, Sess. 2, c. 26, s. 6.

**Vacancies to be filled up by the senate**

### SENATE.

**7.** The senate of the university shall be composed as follows:

**The Senate**

*Ex officio* members 1. The commissioner of education, the chancellor;

Appointed members 2. Five. members to be appointed by the Lieutenant Governor in Council;

Elected members 3. Ten members to be elected by convocation from its members. 1903, Sess. 2, c. 26, s. 7.

### CONVOCATION.

First convocation **8.** The first convocation of the university shall consist of all graduates of any university in his Majesty's dominions, having the degree of bachelor or master of arts, bachelor licentiate or doctor of law or of civil law, bachelor or doctor of medicine, bachelor or master of science or of bachelor, licentiate or doctor of medicine who are actually residing in the Territories three months prior to the first election of members of the senate of the university and who at least one month prior to the said election register themselves as members of such convocation in the office of the Territorial secretary. 1903, Sess. 2, c. 26, s. 8.

Convocation **9.** After the first convocation, convocation shall be composed of the members of the first convocation as constituted under the next preceding section and all persons who shall become graduates of the university. 1903, Sess. 2, c. 26, s. 9.

### ELECTION OF CHANCELLOR AND MEMBERS OF SENATE.

Register for first election **10.** A register shall be kept by the Territorial secretary in which he shall enter the names of graduates who are entitled to be members of the first convocation upon their producing to him satisfactory proof of their qualification under section 8 and upon payment of the fee of $2 and the entry upon the register of the name of any person shall be conclusive evidence that such person is a member of convocation and is entitled to vote as such.

(2) The fees paid to the Territorial secretary under this section shall be transmitted by him to the treasurer of convocation upon his appointment. 1903, Sess. 2, c. 26, s. 10.

Date of first election **11.** The date of the first election shall be fixed by the Lieutenant Governor in Council of which not less than three months' notice shall be given in the Territorial gazette and at least three weeks prior to such date the Territorial secretary shall send a list of all the members of the first convocation to each member thereof. 1903, Sess. 2, c. 26, s. 11.

Nomination of chancellor and members of senate

**12.** For the first election of chancellor and members of the senate no nomination shall be necessary and for any subsequent election any three members of convocation may nominate a candidate for the office of chancellor or for the office of member of the senate and the nomination paper or papers shall be sent to the registrar at least one month before the date fixed for the election. 1903, Sess. 2, c. 26, s. 12.

Where only requisite number nominated

**13.** In the event of only one candidate being nominated for chancellor or only so many candidates being nominated for the senate as are required to be elected such candidate or candidates shall be deemed to have been elected and in such cases no voting papers shall be required to be sent out. 1903, Sess. 2, c. 26, s. 13.

Manner of election

**14.** The votes at any election by convocation shall be given for the chancellor and for the members of the senate respectively by voting papers in the form in the schedule to this Ordinance or to the like effect being delivered to the Territorial secretary at the first election and to the registrar of the university at any subsequent election at such time and place as may be prescribed by the Lieutenant Governor in Council or by statute of the senate respectively. 1903, Sess. 2, c. 26, s. 14.

Voting papers to be counted

**15.** Any voting papers received by post on or prior to the date of such election shall be deemed to be delivered for the purpose of such election. 1903, Sess. 2, c. 26, s. 15.

Voting papers to be sent by registrar

**16.** For any election after the first election it shall be the duty of the registrar to send to each member of convocation where his residence is known to the registrar a list of the candidates duly nominated arranged in alphabetical order accompanied by one copy of the form of voting paper in the schedule to this Ordinance applicable to the election or elections then next to be held and such list and form shall be sent in such manner and at such time before the date of such election as may be directed by statute of the senate. 1903, Sess. 2, c. 26, s. 16.

Opening voting papers

**17.** Said voting papers shall upon the day following the date of election at an hour to be stated by the statute be opened by the registrar of the university in the presence of such members of convocation as may desire to be present and the registrar shall examine and count the votes and keep a record thereof in a proper book to be provided by the senate. 1903, Sess. 2, c. 26, s. 17.

Election of chancellor

**18.** The person who has the highest number of votes at an election for chancellor shall be chancellor of the university for the term of office then next ensuing or for the unexpired portion of the then current term as the case may be. 1903, Sess. 2, c. 26, s. 18.

Election of members of senate

**19.** The members of convocation who have the largest number of votes for members of the senate shall be declared elected members thereof their number and term of office being limited as herein provided. 1903, Sess. 2, c. 26, s. 19.

Who may be elected

**20.** Any member of convocation may be elected chancellor or member of the senate. 1903, Sess. 2, c. 26, s. 20.

Equality of votes

**21.** In case of an equality of votes between two or more persons leaving the election of the chancellor or of one or more members of the senate undecided the election shall be determined by the registrar by lot. 1903, Sess. 2, c. 26, s. 21.

Informa voting papers

**22.** In the event of any elector placing more than one name on his voting paper for chancellor or more than the required number on his voting paper for members of the senate the first name only shall be taken for chancellor and the first names only not exceeding the required number shall be taken for the members of the senate. 1903, Sess. 2, c. 26, s. 22.

Notification of appointed members

**23.** Whenever an appointment is made by the Lieutenant Governor to fill vacancies whether on retirement by rotation or from other cause arising the Territorial secretary shall forthwith communicate the name of the person so appointed to the registrar of the university. 1903, Sess. 2, c. 26, s. 23.

Term of office

**24.** The elected and appointed members of the senate shall hold office for three years and shall be eligible for reelection or reappointment provided that the first elected or appointed members of the senate shall hold office until two years from the first Wednesday of October next following their election or appointment. 1903, Sess. 2, c. 26, s. 24.

Vacancy

**25.** Whenever a vacancy occurs in the senate through the retirement of any member for any cause whatever it shall be competent for those by whom such retiring member was elected or appointed to elect or appoint as the case may be a successor who shall hold office for the remainder of the term of such retiring member. 1903, Sess. 2, c. 26, s. 25.

### MEETINGS AND POWERS OF SENATE.

**26.** The first meeting of the senate shall be held within one month after the first election by convocation under this Ordinance and such meeting shall be at the call of the chancellor of the university. 1903, Sess. 2, c. 26, s. 26. **First meeting**

**27.** The senate shall have power to regulate its meetings and proceedings and shall have the entire management of and superintendence over all the affairs, concerns and property of the university and in all cases unprovided for by this Ordinance it shall be lawful for the senate to act in such manner as shall appear to it best calculated to promote the purposes to be intended to be promoted by the university and it shall have full powers to prescribe examinations and confer degrees and to appoint at such salaries as it shall think fit and at pleasure to dismiss all professors, tutors, lecturers, teachers and other necessary officers, assistants and servants of the university. **Powers of senate**

(2) No religious test shall be required of any professor, teacher, lecturer or student or servant of the university nor shall religious observances according to the forms of any particular religious denomination or otherwise be imposed on them or any of them. 1903, Sess. 2, c. 26, s. 27.

**28.** The senate may from time to time make or alter any statute or statutes touching any matter whatsoever regarding the university not inconsistent with the provisions of this Ordinance or any law in force in the Territories. 1903, Sess. 2, c. 26, s. 28. **Statutes**

**29.** All statutes of the senate shall have the common seal of the university affixed thereto and they shall be binding in accordance with the true intent and meaning thereof. 1903, Sess. 2, c. 26, s. 29. **Form of statutes**

**30.** By any such statute power may be given to any committee, officers or persons to make such regulations for better carrying out the provisions or object of any statute of the university in the manner and to the extent therein prescribed. 1903, Sess. 2, c. 26, s. 30. **Delegation of powers**

**31.** The senate may from time to time affiliate any incorporated college or colleges with the university on being satisfied that such college is in operation and possessed of the requisite buildings and a sufficient staff of professors and other teaching officers to affiliate. 1903, Sess. 2, c. 26, s. 31. **Affiliation of colleges**

Removal from affiliation

**32.** Any college affiliated with the university under this Ordinance may be removed from such affiliation by statute of the senate of the university. 1903, Sess. 2, c. 26, s. 32.

### MEETINGS AND PROCEEDINGS OF CONVOCATION.

Meetings of convocation

**33.** The regular annual meeting of convocation shall be held on the third Tuesday in May and convocation may hold other meetings at such time and place as it may decide by resolution. 1903, Sess. 2, c. 26, s. 33.

Call of the senate

**34.** Convocation shall also meet at the call of the senate. 1903, Sess. 2, c. 26, s. 34.

Extraordinary meeting

**35.** The chairman of convocation shall call an extraordinary meeting of convocation on requisition of ten members but such requisition shall state the object or objects of the meeting to be called and no matter shall be discussed at such extraordinary meeting except the matter or matters for which it was convened. 1903, Sess. 2, c. 26, s. 35.

Notice of special meeting

**36.** At least twenty days' notice of every special meeting of convocation shall be given in writing to each member whose address is known and the object or objects of such meeting shall be clearly stated in such notice 1903, Sess 2, c. 26, s. 36.

Officers of convocation

**37.** The officers of convocation shall be a chairman, a secretary and an executive committee consisting of five members all of whom shall be elected annually in such manner as convocation shall determine. 1903, Sess. 2, c. 26, s. 37.

Rules and regulations

**38.** Convocation shall have power to make such rules, bylaws and regulations as it may consider requisite for conducting its business and proceedings. 1903, Sess. 2, c. 26, s. 38.

Fee

**39.** Convocation shall have the power of fixing a fee to be paid by its members to defray the necessary expenses of convocation. 1903, Sess. 2, c. 26, s. 39.

### REGISTRAR.

The registrar

**40.** The registrar of the university shall be appointed by the senate and it shall be his duty to keep all necessary records and accounts and to perform such other duties as may be required of him by the senate. 1903, Sess. 2, c. 26, s. 40.

### FACULTIES.

**41.** There shall be in the university such faculties as the senate may by statute determine. 1903, Sess. 2, c. 26, s. 41. **Faculties**

### ENDOWMENTS.

**42.** Any person or corporation may with the approval of the senate found one or more professorships, lectureships, fellowships, scholarships, exhibitions, prizes or other rewards in the university by providing a sufficient endowment in land or other property and conveying the same to the corporation of the university for such purposes and every such endowment of lands or other property shall be vested in the corporation of the university for the purpose or purposes for which it was given. 1903, Sess. 2, c. 26, s. 42. **Endowments**

**43.** The university shall be strictly nonsectarian in principle and no religious dogma or creed shall be taught and no religious test required of any student or other person. 1903, Sess. 2, c. 26, s. 43. **University to be nonsectarian**

**44.** The senate shall make full provision for the education of women in the university in such manner as it shall deem most fitting provided however that no woman shall by reason of her sex be deprived of any advantage or privilege accorded to male students of the university. 1903, Sess. 2, c. 26, s. 44. **Education of women**

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## SCHEDULE.

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### FORM OF VOTING PAPER.

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Election 19 .

I, resident at
in the do hereby
declare:

1. That I am a member of convocation of the university of

2. That the signature affixed hereto is in my proper handwriting.

3. That I have not at this election signed any other voting paper as a member of convocation.

4. That I vote for the following person to be chancellor of the said university:

of

5. That I vote for the following persons to be members of the senate of the said university:

of

of

etc.

Witness my hand this this day of 19 .

1903, Sess. 2, c. 26.

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# USE OF TOBACCO BY MINORS.

C.O. 1898, c. 92
15 March, 1899

## An Ordinance respecting the Use of Tobacco by Minors.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Sale of tobacco to minors under sixteen years of age prohibited

1. Any person who either directly or indirectly sells or gives or furnishes to a minor under sixteen years of age cigarettes, cigars or tobacco in any form shall be guilty of an offence and liable on summary conviction thereof to a penalty of not less than $1 or more than $10 with or without costs of prosecution or to imprisonment with or without hard labour for any term not exceeding ten days or to both fine with or without costs and imprisonment to the said amount and for the said term in the discretion of the convicting magistrate; and in case of a fine or a fine and costs being awarded and of the same not being upon conviction forthwith paid the justice may commit the offender to the common gaol there to be imprisoned for any term not exceeding ten days unless the fine and costs are sooner paid. C. O. 92, s. 1.

Except on written request of parent, etc.

2. This Ordinance shall not apply to a sale to the minor under a written request or order of his parent, lawful guardian or employer. C. O. 92, s. 2.

Presumption of age

3. Any person who shall appear to the magistrate to be under sixteen years of age shall be presumed to be under that age unless it is shown by evidence that he is in fact over that age. C. O. 92, s. 3.

Penalty for procuring tobacco by minor

**4.** Any person except as provided in section 2 of this Ordinance to whom the sale of tobacco has been prohibited under section 1 of this Ordinance who either directly or indirectly in any way procures or permits the sale, disposal, gift or delivery to him by any person of any cigarettes, cigars or tobacco in any form shall be guilty of an offence and liable on summary conviction thereof to a fine not exceeding $2 and in default of payment to imprisonment for a period not exceeding one month. C. O. 92, s. 4.

Limitation of Ordinance

**5.** The provisions of this Ordinance shall only apply to municipalities and villages. C. O. 92, s. 5.

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# USEFUL BIRDS.

## An Ordinance for the Protection of Useful Birds.

1902, c. 11
19 April, 1902

[*Assented to April 19, 1902.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Short title

**1.** This Ordinance may be cited as *"The Useful Birds Ordinance."* 1902, c. 11, s. 1.

Birds protected

**2.** No person shall fire at, hunt, take or kill any bird whatsoever except crows, eagles, goshawks, pigeon hawks, duck hawks, Cooper's hawks, hawk owls, blackbirds, cowbirds, grackles, English sparrows, loons, cormorants, pelicans, and mergansers and such birds as are dealt with in *The Game Ordinance*. 1902, c. 11, s. 2.

Nests and eggs

**3.** No person shall at any time disturb, injure or take the nests or eggs of any bird not mentioned in section 2 of this Ordinance. 1902, c. 11, s. 3.

Guardians

**4.** Guardians appointed under the provisions of *The Game Ordinance* shall be guardians under this Ordinance for the purpose of enforcing its provisions. 1902, c. 11, s. 4.

Birds or eggs for scientific purposes

**5.** The commissioner of agriculture may upon application being made to him and upon payment of a fee of $5 grant any person license for the current calendar year to procure for scientific purposes specimens of birds and their eggs protected by this Ordinance. 1902, c. 11, s. 5.

Penalty

**6.** Any person contravening any of the provisions of this Ordinance shall upon summary conviction be liable to a penalty not exceeding $25. 1902, c. 11, s. 6.

Application of Ordinance

**7.** Nothing in this Ordinance contained shall be deemed to affect the provisions of *The Game Ordinance* or to apply to domestic birds. 1902, c. 11, s. 7.

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# VETERINARY SURGEONS.

C.O. 1898, c. 55
15 March, 1899

## An Ordinance respecting Veterinary Surgeons.

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Practitioners to be licensed

**1.** No person shall practise the profession of veterinary surgery in the Territories without having first obtained from the Territorial secretary a license as hereinafter provided entitling him to practise veterinary surgery. C. O. 55, s. 1.

Issue of license

**2.** *Such license may issue upon payment of a fee of $15 to the following persons and no others:*

1. *Any person possessing a diploma or certificate of admission as a veterinary surgeon in any part of his Majesty's dominions granted by any school, college, body or association empowered by law to grant such diploma or certificate;*

2. *Any person possessing a diploma or certificate of admission as a veterinary surgeon in any part of the United States of America granted by any school, college, body or association recognised by the American Veterinary Medical Association as qualified to grant such diploma or certificate.* 1903, Sess. 2, c. 17, s. 1.

Duration of license

**3.** Such license shall remain in force until cancelled by the Lieutenant Governor in Council. C. O. 55, s. 3.

Penalty

**4.** Any person, other than those holding a valid license who practises for reward veterinary surgery except the castration, spaying, *vaccinating* or dehorning of any animal shall be guilty of an infraction of this Ordinance and upon summary conviction thereof shall pay a fine of not more than $25 and costs. C. O. 55, s. 3, and 1899, c. 10, s. 1.

# VILLAGES.

*Principal Ordinance* *1901, c. 25.*
*Amending Ordinance* *1903, sess. 2, c. 23.*

## An Ordinance respecting Villages.

**1901, c. 25**
**12 June, 1901**

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

**1.** This Ordinance may be cited as *"The Village Ordinance."* 1901, c. 25, s. 1. **Short title**

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires: **Interpretation**

1. The expression "village" means and includes any village now existing as such and any village hereinafter organised under the provisions of this Ordinance; **"Village"**

2. The expression "commissioner" means the commissioner of public works for the Territories; **"Commissioner"**

3. The expression "person" includes corporation, joint stock company and partnership; **"Person"**

4. The expression "overseer" means the overseer of a village duly elected or appointed under the provisions of this Ordinance; **"Overseer"**

5. The expression "ratepayer" means and includes: **"Ratepayer"**

(*a*) For the purpose of the first election of an overseer and until the completion of the first revised assessment list any person over the age of twenty-one years who has owned or occupied land within the village for a period of three months immediately prior to the date of such election;

(*b*) After the completion of the first revised assessment list any person over the age of twenty-one years whose name appears on the then last revised assessment list of the village and who has paid all taxes due by him to the village;

6. *The expression "hawker" or "pedler" means and includes any person who (being a principal or any agent in the employ of any person) goes from house to house selling or offering* **"Hawker" or "pedler"**

*for sale any goods, wares or merchandise or carries and exposes samples or patterns of any goods, wares or merchandise to be afterwards delivered within the Territories to any person not being a wholesale or retail dealer in such goods, wares or merchandise; but shall not mean or include any person selling meat, fish, fruit, agricultural implements, sewing machines or farm produce by retail.* 1901, c. 25, s. 2, and 1904, c. 7, s. 1.

## ESTABLISHMENT OF VILLAGES.

**Notice of intention to establish village**

**3.** Whenever the commissioner is satisfied by such proof as he may require that any portion of the Territories comprising an area not greater than twelve hundred and eighty acres no part of which is within the limits of a municipality contains not less than fifteen dwelling houses he may cause notices to be posted up in three conspicuous places within such area one of which shall be the post office therein if there be one that it is proposed to establish the same as a village after the expiration of thirty days from the date of such posting. 1901, c. 25, s. 3.

**Establishment of village**

**4.** *After the expiration of the said thirty days the Lieutenant Governor in Council may by order establish a village comprising the said area or some portion thereof containing not less than fifteen dwelling houses, fix a day for the election of an overseer and appoint a suitable person to act as returning officer at such election.*

(2) *The Lieutenant Governor in Council shall by the said order give a name to the village which may be the name of the post office therein, if any, or such other name as he may consider suitable and shall define the boundaries of the said village and may by any subsequent order change the name or alter the boundaries so given.* 1903, Sess. 2, c. 23, s. 1.

## OVERSEER.

**Election of overseer**

**5.** The first election of overseer and all later elections shall be conducted as follows:

1. The returning officer shall by public notice posted in the post office if there be one and in two other conspicuous places in the village at least one week before the election call a meeting of the ratepayers for the election of an overseer to be held on the day fixed therefor;

2. Election meetings shall commence at the hour of seven o'clock in the evening of the day appointed or if such be a Sunday or a holiday on the next following day which is not a Sunday or a holiday;

3. Nomination shall be made during the first hour of the meeting;

4. Male ratepayers and no other persons shall be eligible for election as overseer;

5. When the time for nomination has closed:

   (*a*) If only one person has been nominated the returning officer shall declare such person to be elected overseer;

   (*b*) If more than one person have been nominated the returning officer shall at once proceed to take the vote of the ratepayers present which shall be by open voting;

   (*c*) The poll shall close at midnight unless prior thereto fifteen minutes shall have elapsed after any vote has been polled without any other vote being tendered in which event the poll shall close at the expiration of said fifteen minutes;

6. Every person tendering his vote at the first election of an overseer shall before his vote is received make and sign before the returning officer a declaration in form A in the schedule hereto;

7. At subsequent elections of an overseer the returning officer shall satisfy himself that the name of every person who tenders a vote is entered on the then last revised assessment list of the village and that all taxes due by such person to the village have been paid; and to enable him so to do the overseer shall not later than six o'clock in the afternoon of the day of such election furnish him with a certified copy of such assessment list showing thereon the names of all ratepayers whose taxes are not paid in full;

8. The returning officer shall declare elected the nominee having the largest number of votes;

9. In case of an equality of votes the returning officer shall give the deciding vote but shall not vote otherwise. 1901, c. 25, s. 5.

**6.** Any person wilfully making a false declaration as a voter shall be guilty of an offence and liable on summary conviction to a penalty not exceeding $25. 1901, c. 25, s. 6. **Penalty for false declaration**

**7.** The returning officer shall make a return to the commissioner showing the result of the election and shall send therewith the declaration if any signed by the voters and his own declaration in form B in the schedule hereto. 1901, c. 25, s. 7. **Return of election**

Overseer's bond

**8.** The person elected as overseer shall within five days or such period as may be determined by the commissioner after the declaration of his election deliver to the returning officer the bond of sufficient sureties in form C in the schedule hereto with an affidavit of justification indorsed thereon or the bond of a guarantee company for $1,000 to be approved by the commissioner. 1901, c. 25, s. 8.

Overseer not to act till bond given

**9.** Until such bond is furnished the person elected shall not act as overseer. 1901, c. 25, s. 9.

New election if bond not furnished

**10.** If such bond is not delivered to the returning officer within the time mentioned in section 8 hereof he shall proceed to hold another election as soon as may be consistent with the giving of notice as herein provided.

(2) At the election so to be held the person making default in delivering such bond shall not be eligible for election.

(3) The previous election shall become void on the election of another person under this section.

(4) Immediately on receipt of the bond the returning officer shall transmit it to the commissioner.

(5) If a person is elected overseer in the place of one who has failed to furnish a bond the provisions of this and the two preceding sections shall be observed and followed as if he had been elected in the first instance. 1901, c. 25, s. 10.

Overseer's term of office

**11.** The first overseer elected in any village shall enter on his duties at once after furnishing his bond and shall hold office for the remainder of the calendar year in which he is elected and until his successor has furnished his bond.

(2) The overseer elected at elections subsequent to the first election shall hold office for the remainder of the calendar year ensuing the furnishing of the bond required by section 8 hereof and until his successor has furnished his bond.

(3) In case of a vacancy occurring in the office of overseer the commissioner may order another election or appoint an overseer for the unexpired term in which latter case the commissioner may dispense with the overseer's bond otherwise required.

(4) In the case of any failure on the part of the ratepayers to elect an overseer the commissioner may appoint such person as he may see fit as overseer of the village; and notice of the appointment of such person shall be published in the official gazette. 1901, c. 25, s. 11.

**12.** The commissioner may if he sees fit remove any overseer from his office and appoint an overseer in his stead; and such last mentioned overseer shall have all the powers of the overseer and such other powers in regard to the conduct of the village affairs as may by the commissioner be deemed proper and necessary. 1901, c. 25, s. 12.

**Removal of overseer by commissioner**

**13.** The election for overseer subsequent to the first shall be held in each village on the second Monday in December in each year; and for the purpose of such election the overseer shall appoint in writing at least two weeks before the said date a returning officer; and should the person so appointed decline or become unable to act the overseer shall forthwith appoint another in his stead.

**Subsequent election of overseer**

(2) The returning officer shall receive a fee of $3.

(3) At the meeting for the election of an overseer and before the overseer is elected the retiring overseer shall present to the meeting a properly audited statement of the accounts of the village for the current year up to the date of such meeting. 1901, c. 25, s. 13.

**14.** Whenever the election of an overseer is disputed the commissioner may upon the receipt of a complaint of any ratepayer verified by the solemn declaration of the complainant and two other ratepayers and accompanied by a deposit of $25 investigate the matter and render such decision in and about the same as shall to him appear proper.

**Disputed election**

(2) The decision of the commissioner shall be final and shall be observed and obeyed by all persons concerned.

(3) Any person disobeying any such decision shall be liable on summary conviction thereof to a penalty not exceeding $50.

(4) After the commissioner has given his decision he shall make such disposition of the said deposit of $25 as to him shall seem meet. 1901, c. 25, s. 14.

### MEETINGS OF RATEPAYERS.

**15.** An annual business meeting of the ratepayers shall be held in the village before the fifteenth day of April in each year; which meeting shall be called by the overseer who shall give notice thereof for the period and in the manner required for election meetings. 1901, c. 25, s. 15.

**Annual meeting**

**16.** The overseer shall at the annual village meeting submit to the ratepayers a statement of the estimated total expenditure of the village for the current year which shall include:

**Overseer's statement**

(*a*) The amount payable in such year on any debt contracted hereunder;

(*b*) The amount necessary to complete works in course of construction and necessary repairs to existing works;

(*c*) Drainage and street improvements;

(*d*) Construction of sidewalks;

(*e*) Fire protection and water supply;

(*f*) Purchase of property for village purposes;

(*g*) Scavenging;

(*h*) Contingencies;

(*i*) *Remuneration of overseer and any other officials employed under authority of this Ordinance.* 1901, c. 25, s. 16, and 1903, Sess. 1, c. 20, s. 1.

**Order of business**

**17.** At the annual meeting the order of business shall be as nearly as possible as follows:

1. The election of a chairman and secretary.

2. The reading and dealing with:

(*a*) The minutes of last meeting;

(*b*) The overseer's return provided for in section 47 hereof; and

(*c*) The auditor's report;

3. The consideration of the overseer's statement of estimated expenditure and deciding thereupon:

Provided that the sum appropriated for contingencies under the provisions of this section shall not in any case be less than ten per centum of the total amount of approved expenditure;

4. Such other general business as may concern the village but not exceeding the powers given herein. 1901, c. 25, s. 17.

**Regulations by ratepayers**

**18.** The ratepayers may at the annual meeting or at a special meeting duly called for the purpose in addition to their other powers make regulations further than those herein contained for the general cleanliness of and prevention of disease in the village including the employment and remuneration of a scavenger; and also for the protection of property from fire; and may make regulations for a rebate of taxes to any ratepayer in consideration of the planting of trees on the property of such ratepayer or on any street in front of such property. 1901, c. 25, s. 18.

**19.** The overseer whenever he deems fit may or upon being requested to do so by any five ratepayers in writing giving the object of the meeting shall call a special meeting of the ratepayers. Special meetings

(2) Notice of special meetings shall be given as in the case of the annual meeting but such notice shall also state the purpose of the meeting. 1901, c. 25, s. 19.

### ASSESSMENT AND TAXATION.

**20.** The necessary revenue of the village shall except in the cases hereinafter provided for be raised by the levy of a yearly rate upon the property not exempt from taxation therein not exceeding ten mills on the dollar of the assessed value. 1901, c. 25, s. 20. Revenue how raised

**21.** The overseer shall forthwith after his election if he is the first overseer and in other cases immediately after the annual meeting assess all real and personal property in the village not exempt from taxation as hereinafter provided; and shall prepare an assessment list showing the name of each person assessed, the property in respect of which he is assessed and the assessed value. Assessment

(2) The ratepayers may at the annual meeting instruct the overseer for the purpose of such assessment to use the assessment roll of any school district within or partially within the village limits in so far as the same is applicable.

(3) If any property which should have been assessed has been omitted from the assessment list the overseer shall upon discovery of such omission if within one month from the mailing of a notice of such assessment as herein provided assess such property and make the necessary additions to the assessment list. 1901, c. 25, s. 21.

**22.** The property exempt from taxation under the provisions of this Ordinance shall be: Exemptions

1. All the property held by his Majesty or specially exempted by the Parliament of Canada or for the public use of the Territories;

2. All property held by or in trust for the use of any tribe of Indians;

3. Where any property mentioned in either of the two preceding clauses is occupied by any person otherwise than in an official capacity the occupant shall be assessed in respect thereof but the property itself shall not be liable;

4. The buildings and grounds to the extent of two acres of all schools organised under *The School Ordinance* and the personal property belonging to the same being used for school purposes;

5. Any building used for church purposes and not used for any other purpose for hire or reward and the lot or lots whereon it stands not exceeding one-half acre except such part as may have any other building thereon;

6. Any land in use as a public cemetery not exceeding twenty-five acres;

7. The annual income of any person derived from any source;

8. Grain, hay, household effects of every kind, books and wearing apparel;

9. The increase in the value of the land by reason of the annual cultivation thereof together with the growing crops or by reason of the cultivation of trees;

10. All works constructed, operated and used in connection with irrigation ditches as well as the ditches themselves operated under and subject to the provisions of *The North-West Irrigation Act 1898*:

Provided however that should any such works and ditches be not operated during one year then such works and ditches shall not be exempt from taxation during the year following that in which said works were not operated;

11. *Buildings used for hospital purposes and not for any other purpose for hire or reward by any institution now or hereafter designated by the Lieutenant Governor in Council to receive public aid under the terms and provisions of The Hospitals Ordinance and the lot or lots whereon they stand not exceeding two acres except such parts as may have any other buildings thereon.* 1901, c. 25, s. 22, and 1903, Sess. 1, c. 20, s. 2.

Notice of assessment

**23.** The overseer shall upon completion of the assessment list mail to or leave at the usual or last known place of abode of each person assessed written notice in form D in the schedule hereto of the property in respect of which he is assessed and the amount; and shall make a note on the assessment list opposite the name of each person stating the manner and date of giving notice. 1901, c. 25, s. 23.

Oath of assessment

**24.** The overseer shall forthwith after the assessment make oath that such assessment was truly and honestly made and that the notices were given as stated in the assessment list;

and such assessment list when verified by such oath shall be *prima facie* evidence that the assessment was duly made and that the notices were duly given. 1901, c. 25, s. 24.

**25.** Any ratepayer or person assessed may within fifteen days after the mailing or delivery of the notice appeal to a justice of the peace residing within the village or one residing nearest thereto from such assessment; and the justice shall fix a time within two weeks from the last day for giving notice and a place for hearing appeals; and all appeals shall be determined within one week after the time fixed for hearing them; and the overseer shall amend his assessment if necessary in accordance with the decision of the justice. **Appeal from assessment**

(2) Notice of appeal (stating the grounds thereof and the time and place fixed by the justice for hearing the same) shall be given in writing by the appellant to the overseer and any other person affected.

(3) Any justice of the peace who shall hear an appeal as provided in this section shall be entitled to receive from the funds of the village payment for his services at the rate of $2 per day while engaged in hearing such appeals. 1901, c. 25, s. 25.

**26.** After the assessment has been completed and the appeals, if any, disposed of the overseer shall strike such a rate not exceeding the amount mentioned in sections 20 or 36 respectively hereof as shall be sufficient to raise the amount of the estimated expenditure making allowance for losses which may occur in the collection of taxes on the lands of nonresidents: **Rate of assessment**

Provided that the taxes of any person assessed shall not be a less sum than one dollar. 1901 c. 25, s. 26.

**27.** The overseer shall then prepare a tax list in which he shall set down the name of every person assessed, the assessed value of his property and the taxes payable by him as computed at the rate arrived at as hereinbefore provided; he shall then mail to or leave at the last known place of abode of each such person a notice in form E in the schedule hereto stating the amount due by him and the property in respect of which it is due; the overseer shall make a note on the tax list opposite the name of each such person stating the manner and date of giving the notice and shall make oath that the tax list is correct and that the notices were given as therein stated; such oath shall be indorsed on the tax list and shall be *prima facie* evidence of the truth of the statements contained in it. **Tax list**

(2) The overseer shall note on the tax list all payments of taxes against the lands for which such payments are made together with the date of such payments. 1901, c. 25, s. 27.

Notice of assessment when owner unknown

**28.** If the name of the owner of any property in the village be not known to and cannot be ascertained by the overseer the notice of assessment and taxes shall be posted securely in the post office if any or if there be no post office then in a conspicuous place in the village and such posting shall be deemed due service 1901, c. 25, s. 28.

Distress for taxes

**29.** In case any person neglects to pay his taxes for thirty days after such notice as aforesaid the overseer shall by himself or his agent levy the same with costs by distress of the goods and chattels of the person who ought to pay the same wherever they may be found in the village or of any goods and chattels found on the premises the property of or in the possession of any other occupant of the premises; and may impound the same on the premises where distrained; and no claim of property, lien or privilege shall be available to prevent the sale or the payment of the taxes and costs out of the proceeds of the sale thereof. 1901, c. 25, s. 29.

Taxes a debt

**30.** Taxes may be recovered with costs as a debt due to the overseer in which case the production of the tax list verified by the oath of the overseer shall be *prima facie* evidence of the debt. 1901, c. 25, s. 30.

Taxes a special lien

**31.** The taxes accruing upon or in respect of any land in the village shall be a special lien upon such land and have priority over any claim, lien, privilege or incumbrance thereon. 1901, c. 25, s. 31.

### DOG LICENSE.

Dog license

**32.** Every person who keeps or harbours any dog or bitch shall pay a yearly license fee of $1 for each dog and $2 for each bitch so kept or harboured; which fee shall be payable on demand of the overseer; and may be recovered in such mode herein provided for the collection of taxes as may be applicable; and if not paid after demand by the overseer he shall cause the dog or bitch to be destroyed.

(2) Any person refusing or neglecting to pay such license fee shall on summary conviction thereof be liable to a penalty of $2. 1901, c. 25, s. 32.

### HAWKERS AND PEDLERS.

**33.** No person shall follow the calling of a hawker or pedler in any village without first having obtained the written permission of the overseer and having paid to such overseer the sum of $10 to form part of the village fund.

Hawkers' and pedlers' licenses

(2) Such sum shall be in addition to any Territorial license fee and when such Territorial license fee is paid shall entitle the person paying the fee to follow the business of a hawker or pedler in such village for the remainder of the current calendar year.

(3) *No person occupying premises in any village who has not resided continuously in such village for a period of at least three months and who has not been or is not liable to be entered on the assessment roll for the village for the then current year shall offer goods or merchandise of any description for sale by auction or in any other manner without first having paid to the overseer the sum of $25 to form part of the village fund:*

*Provided that the ratepayers at the annual meeting next following the payment of any such sum of $25 may by resolution authorise the overseer to return to the person paying such sum if he is still a resident of the village all or such portion of such sum as may be declared by such resolution.* 1901, c. 25, s. 33; 1903, Sess. 1, c. 20, s. 3, and 1903, Sess. 2, c. 23, s. 2.

### TRAVELLING COMPANIES.

**34.** The ratepayers may decide by resolution passed at the annual or any other meeting of the village as herein provided that no travelling theatre, concert or amusement company, entertainer or showman shall hold any performance or exhibition in any village without having previously paid to the overseer thereof for the benefit of the village the license fee fixed at such meeting for which fee the overseer shall give a written receipt; and if such company, entertainer or showman proceed to hold any performance or exhibition without having paid such fee the same may be levied by the overseer or any person authorised by him by distress and sale of any goods in possession of such company, entertainer or showman. 1901, c. 25, s. 34.

Licensing showmen, etc.

### BILLIARD TABLES.

**35.** No person shall have set up in any public room or hall in a village any billiard or pool table without *paying yearly* to the overseer for the use of the village the license fee following,

Billiard license

that is to say: For a single billiard or pool table, $10; and for every additional table, $5; and any person guilty of an infraction of this section shall on summary conviction thereof be liable to a penalty not exceeding $25. 1901, c. 25, s. 35, and 1904, c. 7, s. 2.

### SINGLE TAX.

Land assessment system

**36.** If two-thirds of the total number of ratepayers in any village petition the commissioner therefor the commissioner may order that the assessment in the village shall after a date to be fixed by him be limited to an assessment based upon the actual value of all lands in the village exclusive of the improvements thereon.

(2) Such petition shall be accompanied by an affidavit of two ratepayers proving the signatures to the petition and that the persons who signed the same constitute two-thirds of such total number of ratepayers.

(3) The fact of such order having been made shall be conclusive evidence that a proper and duly verified petition was presented therefor.

(4) In case such an order is made the rate to be struck by the overseer under section 26 of this Ordinance shall not in any year after the date so to be named by the commissioner exceed two cents on the dollar of the assessment:

Provided that the taxes of any person assessed shall not in any case be a less sum than one dollar;

(5) *In the event of any village that has adopted the system of assessment provided for in this section desiring to revert to the original assessment of all property in the village it may do so in the same manner and subject to the same conditions as is in this section provided for the adoption of the system of assessment of land only.* 1901, c. 25, s. 36, and 1903, Sess. 1, c. 20, s. 4.

Assessment every two years

**37.** In villages within which a single tax as provided in the next preceding section is ordered by the commissioner as herein provided an assessment shall be made only once in every two years and notice of such assessment shall be given only at the time of completing a new assessment list:

Provided however that during the interim between any two assessments the overseer may add new names to the assessment list or change names when necessary to do so to provide for changes in the ownership of property entered on such list.

(2) In cases where new names are added to the assessment list under authority of the preceding subsection the provisions of sections 23, 24 and 25 of this Ordinance regarding notice, verification and appeal from assessment shall apply. 1901, c. 25, s. 37.

### VILLAGE EXPENDITURE.

**38.** The funds of the village shall be deposited in a chartered bank or in any other bank agreed upon at the annual meeting if there is no chartered bank in the village to the credit of the overseer in his official capacity; and shall from time to time be expended by the overseer by the issue of cheques against such bank account for the purposes of and in accordance with the estimates approved at the annual meeting subject to such further directions as may at any special meeting be made regarding the same. 1901, c. 25, s. 38.

**Expenditure by overseer**

**39.** The overseer may incur any debt not exceeding $100 for any of the purposes specified in the estimated expenditure approved at the annual meeting pending the collection of taxes; but all debts shall subject to the provisions herein contained be paid before the second Monday in December in each year. 1901, c. 25, s. 39.

**Overseer may incur limited debt pending collection of taxes**

**40.** On petition of a majority of the resident ratepayers the signatures to which petition shall be verified by statutory declaration the commissioner may authorise the overseer to incur a debt on behalf of the village not exceeding $1,000; but the amount of any such debt shall not in any case exceed ten per centum of the total value of property in the village as shown by the then last revised assessment list.

**Liability authorised by commissioner for permanent improvements on petition**

(2) The sum so authorised shall be expended on permanent improvements in the village and shall be fully repaid within ten years from the date of contracting said debt; and the moneys payable in each year on any such debt shall be a first charge on the taxes collected in the village during such year. 1900, c. 25, s. 40.

(3) The sum so authorised shall be repaid in equal annual sums and a proper debenture or debentures therefor shall be signed by the overseer in form F in the schedule hereto.

(4) *On petition of a majority of the resident ratepayers the signatures to which petition shall be verified by statutory declaration the commissioner may authorise the overseer on behalf of the village to enter into a contract with any person or corporation for the supply of water to the village by means*

*of irrigation canals or otherwise in such quantities and upon such terms as in the petition set out and for the purpose of handling and distributing such water to employ a watermaster who shall be under the direction of and responsible to the overseer for the time being.* 1901, c. 25, s. 40, and 1903, Sess. 1, c. 20, s. 5.

Authorisation of commissioner conclusive evidence

**40a.** *The authorisation of the commissioner authorising the overseer to incur a debt on behalf of the village shall when given be conclusive evidence that the village has been legally erected and that all the formalities in respect of such petition, authorisation or debt have been complied with; and after such authorisation has been signified by the commissioner in writing the validity of such petition, authorisation or debt shall not be questioned by any court in the Territories but such debt shall subject to the provisions of section 40 of this Ordinance be a valid charge against the revenues of the village.* 1904, c. 7, s. 3.

Commissioner may appoint inspector

**41.** The commissioner may appoint such person or persons as he may see fit to inspect and report on the condition of any and all improvements in the village, the tools, implements or other property owned by the village, and to audit the books of the overseer of the village. 1901, c. 25, s. 41.

Commissioner may authorise acquisition of recreation grounds, etc., on petition

**42.** On petition of a majority of the resident ratepayers the commissioner may authorise the overseer out of the funds of the village to acquire on behalf of the village by purchase or lease suitable grounds for recreation purposes or for the purpose of depositing garbage or other refuse of the village. 1901, c. 25, s. 42.

Commissioner may authorise acquisition of cemetery

**43.** The commissioner may authorise the overseer out of the funds of the village to acquire on behalf of the village by purchase or lease the land required for cemetery purposes.

(2) The ratepayers may at the annual meeting of the village or at any special meeting called for the purpose adopt rules and regulations not inconsistent with the provisions of *The Cemeteries Ordinance* for the control and management of the cemetery acquired by the village. 1901, c. 25, s. 43.

### SUITS BY OR AGAINST VILLAGE.

Suits by or against village

**44.** Suits by or against the village may be brought by or against the overseer as representing the village. 1901, c. 25, s. 44.

Enforcement of judgment against village

**45.** In the event of judgment being obtained against the overseer for any liability of the village execution may issue and be enforced by execution rate levied by the sheriff in the manner provided for execution against a municipality in *The Municipal Ordinance.* 1901, c. 25, s. 45.

### OVERSEER'S DUTIES AND POWERS.

Duties and powers of overseer

**46.** The overseer shall have the following duties and powers:

1. He shall carry out the orders of the ratepayers in respect of public works and expenditure of village funds and such general orders consistent with the provisions of this Ordinance as may be given upon matters concerning the village;

2. He shall enforce the provisions of this Ordinance and all regulations made thereunder;

3. He shall make such regular inspection of premises in the village as may be necessary to carry out the provisions herein respecting nuisances and the prevention of disease and fire;

4. He shall have charge of all village property;

5. He shall keep a record of all taxes levied and collected and of all moneys received and expenditures made by him and shall give and take proper receipts for all money received or paid as the case may be;

6. He shall keep the books and accounts of the village open for the inspection of the ratepayers at all reasonable hours upon their giving him timely notice;

7. He shall keep or cause to be kept full and accurate minutes of each village meeting other than election meetings which minutes shall record the names of the movers and seconders of all motions and state whether such motions were carried or lost;

8. He shall have the public improvements directed to be made in each year completed before the first day of November in such year;

9. He shall on application in reasonable hours produce to the auditor for inspection all books, accounts, minutes, lists and other records of the village;

10. He shall impound or cause to be impounded animals unlawfully running at large;

11. He shall have the powers of a constable in enforcing the provisions of this Ordinance. 1901, c. 25, s. 46.

### ANNUAL RETURNS OF OVERSEER.

**Annual return by overseer**

**47.** The overseer shall on or before the first day of December in each year render to the commissioner a return in writing showing:

(*a*) Amount of money collected and by whom paid;

(*b*) The amount expended and for what purposes showing balance on hand;

(*c*) The outstanding liabilities if any of the village;

(*d*) The names of all those who have been convicted for a breach of this Ordinance or of any of the regulations made hereunder in his village, stating the penalty imposed and the name of the convicting justice;

(*e*) A copy of the auditor's report.

(2) The overseer shall transmit a copy of such return to the ratepayers as hereinbefore provided and also at the annual meeting. 1901, c. 25, s. 47.

**Return of unpaid taxes**

**48.** The overseer of every village shall in the first fifteen days of January in each year make a return verified by his solemn declaration to the commissioner in such form as may by the commissioner be from time to time prescribed showing all lands in the village upon which taxes have not been paid together with the years for which such taxes are due.

(2) The returns shall for all purposes be *prima facie* evidence of the validity of the assessment and imposition of the taxes as shown therein and that all steps and formalities prescribed by this Ordinance have been taken and observed. 1901, c. 25, s. 48.

**Confirmation of said return**

**49.** On application by the attorney general of the Territories or some advocate authorised by him to a judge of the supreme court in chambers such judge may appoint a time and place for the holding of a court for confirmation of the return mentioned in the preceding section notice of which shall be published in every issue of the official gazette for two months and once each week for at least eight weeks in a local paper published in the village or if there be none published in the village then in a local paper published in the district to be named by the commissioner.

(2) A notice of the time and place fixed for confirmation of such return shall be sent by mail at least sixty days prior to the time so fixed to each person who appears by the records of the proper land titles office or by the said return to have any

interest in the lands mentioned in said return in respect of which confirmation is desired and whose post office address is shown by said records or return; and the entry against such lands of the date of mailing such notice together with the initials of the clerk of the local improvement branch of the department of public works shall without proof of the appointment or signature of the said clerk be *prima facie* evidence that the required notice has been mailed. 1901, c. 25, s. 49.

**50.** At the time and place so appointed the judge shall hear the application and also any objecting parties and the evidence adduced before him; and thereupon adjudge and determine whether or not the taxes imposed respectively upon each parcel of land included in the return were either wholly or in part in default; and report the adjudication to the said attorney general; and shall also confirm the return as to those parcels on which any taxes are determined to be in arrears for over two years naming the amounts severally and adding thereto a reasonable amount for the expense of advertising together with such sum as he may fix for costs of the application; and the effect of such adjudication shall be to vest in the crown for the public use of the Territories the said lands subject however to redemption by the owners respectively of the said lands at any time within one year from the date of the adjudication by payment to the commissioner of the amounts named including expenses as aforesaid together with a redemption fee of $1 for each and every parcel so redeemed and any subsequent taxes paid by the commissioner.

**Hearing application for confirmation**

(2) For the purpose of this section all taxes shall be held to be due on the first day of January of the calendar year within which the same are imposed.

(3) In the event of any person successfully opposing confirmation of the said return as to the land in which he is interested the judge may order an allowance to him as witness fees to be paid by the commissioner.

(4) A copy of such adjudication certified by the commissioner shall be forwarded to the registrar of the land registration district in which the lands named in the adjudication or any of them are situated and such copies shall be notice to the public of the facts therein contained. 1901, c. 25, s. 50.

**51.** If any person interested in any parcel of land contained in the return presented to the judge for confirmation as provided by section 49 of this Ordinance pays the taxes upon such lands before the date fixed for confirmation of such return but

**When overdue taxes paid before application for confirmation**

after such date has been fixed he shall in addition to the amount of taxes shown by such return to be overdue pay the sum of $1 for each parcel of land to cover the costs of application to the judge and advertising and postage in connection with such proceedings; and any sum so paid shall form part of the Territorial revenue. 1901, c. 25, s. 51.

When title to land to vest in Crown

**52.** At any time after the expiration of the year last named on *ex parte* application by the attorney general or an advocate appointed by him and production of the last named adjudication together with the certificate of the commissioner showing that the land has not been redeemed the judge by order in chambers may direct that the title to such of the land named in the adjudication as has not been redeemed by or on behalf of the owner be absolutely vested in his Majesty freed from all liens, mortgages and incumbrances of whatever nature or kind the same may be. 1901, c. 25, s. 52.

When commissioner to pay taxes

**53.** So soon as the return of the overseer has been confirmed the commissioner shall pay to the overseer the amount of taxes adjudged in arrears on each parcel of land deducting therefrom any charges he may have been required to pay; and thereafter yearly while owned by his Maejsty the said land shall be assessed in the name of the commissioner who shall pay taxes as if the land were assessed to an ordinary individual. 1901, c. 25, s. 53.

### ANIMALS RUNNING AT LARGE.

Running at large of animals may be forbidden

**54.** The ratepayers may at any meeting make a regulation that animals or poultry shall not be permitted to run at large in the village or in any part thereof in or during any period of the year.

(2) Whenever the ratepayers have made such regulation no animal shall be permitted to run at large in the village contrary to the provisions of such regulation; and it shall be the duty of the overseer to act as pound keeper or appoint a pound keeper whose duty it shall be to keep and maintain a pound in the village for the impounding of estray animals or poultry of the description aforesaid.

(3) In so far as they are not inconsistent herewith the provisions of *The Pound District Ordinance* shall apply and be followed and observed in all respects as if such village were a pound district under the said Ordinance except that the fees payable under this section to the pound keeper for the care and sustenance of each animal impounded for each day such animal is impounded shall be as follows:

For each stallion or bull thirty-five cents;

For each horse, mule, jack, head of cattle or swine, twenty-five cents;

For each sheep or goat, ten cents;

For each head of poultry, two cents.

(4) The overseer shall when any such regulation is made as provided in this section notify the commissioner of agriculture of the same and give the name of the pound keeper appointed by him. 1901, c. 25, s. 54.

PREVENTION OF DISEASE.

Regulations for prevention of disease

**55.** For the prevention of disease the following regulations shall be observed in each village:

1. Privy pits shall be emptied and disinfected with lime between the first day of April and the fifteenth day of November in each year;

2. No privy pit shall be allowed to become offensive at any time;

3. No privy pit shall be within fifty feet of any well;

4. Where dry earth closets are ordered by resolution of a village meeting no privy shall be used;

5. No person shall deposit or cause to be deposited in any place other than a stable yard any manure, filth, rubbish or decaying animal or vegetable matter;

6. Stable yards shall be cleaned during the first week of every month from the first day of May until the seventh day of November in each year;

7. All garbage, swill, slops and other rubbish shall be placed in suitable receptacles and removed regularly every week between the first day of May and the first day of November in each year;

8. No stable yard shall be allowed to become offensive at any time because of decaying animal or vegetable matter;

9. No swine shall be kept except in pens at least one hundred feet distant from any occupied house or place of business;

10. Swine pens shall be kept dry and free from offensive odour;

11. Foul water shall not be allowed to accumulate on any property;

12. No slaughter house shall be erected within the village except by authority of a resolution passed at a meeting of the ratepayers.

(2) Any person contravening any of the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $10. 1901, c. 25, s. 55.

### PREVENTION OF FIRE.

Regulations for prevention of fire

**56.** For the prevention of fire the following regulations shall be observed in each village:

1. No person shall keep on any premises a larger quantity of gunpowder or other explosive than twenty-five pounds unless it be stored at least one hundred feet from any building;

2. No person shall keep on any premises a greater quantity of kerosene than five barrels thereof unless it be stored at least sixty-six feet from any building;

3. No person shall have or erect on any premises any building built in whole or in part of manure, hay or straw or place on the roof of any building any manure, hay or straw unless such building be at least one hundred feet distant from any other building in which a fire is ever kindled;

4. No person shall have any stack of grain, hay or straw on any premises within one hundred feet of any building in which a fire is ever kindled;

5. No person shall enter any stable or barn with any candle or lamp not enclosed in a lantern or with a lighted pipe, cigar or cigarette;

6. No person shall set out fire within fifty feet of any building:

Provided that any blacksmith may build a fire within fifty feet of his shop for the purposes of his trade;

7. No person shall deposit ashes in any wooden container unless it be lined with metal;

8. All ovens and furnaces shall be properly connected with a chimney of brick, stone or concrete at least three feet higher than the building in which such oven or furnace is built;

9. There shall be a space of at least nine inches between any stovepipe and any partition or floor through which it passes unless such stovepipe be surrounded in such partition or floor by a thimble of brick, cement or concrete at least two inches in thickness and of the full depth of such partition or floor; and every such stovepipe shall be inserted into a chimney of brick, stone or concrete;

10. At least twelve inches shall intervene between any stove in use and the partition or wall nearest thereto;

11. Every proprietor or occupant of any house more than one storey high with a roof having a pitch greater than one foot in three shall keep a ladder on such roof near the chimney thereof.

(2) Any person contravening any of the provisions of this section shall be guilty of an offence and liable on summary conviction thereof to a penalty not exceeding $10. 1901, c. 25, s. 56.

### REMUNERATION OF OVERSEER.

**Remuneration of overseer and watermaster**

**57.** The remuneration of overseer shall be fixed at the annual meeting but shall not be more than $100 nor less than $15; together with 2½ per centum of all taxes collected by him; and the overseer may retain his said remuneration at the expiration of his term of office out of the moneys then in his hands.

(2) *The remuneration of any watermaster employed under the provisions of this Ordinance shall also be fixed at the annual meeting but in the event of his employment being authorised by the commissioner in any year subsequent to the annual meeting the remuneration of the watermaster for the balance of such year shall be fixed by the overseer with the approval of the commissioner.* 1901, c. 25, s. 57, and 1903, Sess. 1, c. 20, s. 6.

### AUDIT, ETC.

**Audit of overseer's books**

**58.** At the expiration of the term of office of any overseer or upon his ceasing to hold office for any cause or at any other time that the commissioner may direct all books, accounts, records, lists, vouchers, moneys and other property of the village shall be examined by an official auditor appointed under the provisions of any Ordinance or by some qualified person appointed by the commissioner and handed over to the successor in office of such overseer; and the auditor shall make a full report of his examination and audit of all such books, accounts, records, lists, vouchers and moneys transmitting one copy thereof to the commissioner and handing a second copy to the overseer to be presented to the ratepayers.

(2) For the purpose of such examination and report it shall be the duty of the auditor to:

1. Compare the overseer's statement with that of the previous year to see that the proper balances are carried forward;

2. Compare the balance on hand as shown by the overseer's books with the balance in overseer's bank book and satisfy himself as to that balance being in bank at date of the audit;

3. Compare the revised assessment roll and tax list with the overseer's statement of taxes received and taxes outstanding in respect of the year's assessment;

4. Report the proof advanced by the overseer of the correctness of the statement of receipts from dog licenses, hawker, pedler and billiard licenses, travelling entertainers, fines and other sources of revenue;

5. Ascertain whether authority existed for each payment made and obligation incurred and report particulars of any expenditure made by the overseer without authority of the annual meeting;

6. Examine all vouchers and report all payments made for which detailed statements of account and receipts for payments have not been produced by the overseer;

7. Ascertain the correctness of the overseer's inventory of village assets. 1901, c. 25, s. 58.

### OFFENCES AND PENALTIES.

Penalties

**59.** Any overseer after accepting office neglecting or refusing to render a true and correct account as and when required herein or refusing or neglecting to hand over to his successor in office any property of the village as directed by the foregoing section shall be guilty of an offence and shall be liable on summary conviction thereof to a penalty not exceeding $50.

(2) Any overseer after accepting office neglecting or refusing to discharge any other duty under this Ordinance shall be guilty of an offence and liable to a penalty not exceeding $25.

(3) Any person contravening any provision of this Ordinance for which contravention no penalty is therein provided or any judgment, order or regulation given or made under this Ordinance shall be liable on summary conviction thereof to a penalty not exceeding $25.

(4) Fines imposed for the contravention of this Ordinance or of any regulation made hereunder shall be paid to the overseer to form part of the village funds. 1901, c. 25, s. 59.

### TITLE TO REAL ESTATE.

Real estate to be vested in commissioner

**60.** The title to any lands purchased or otherwise acquired on behalf of any village shall be vested in the commissioner who shall hold the same for the purposes of the village. 1901, c. 25, s. 60.

### RULES AND REGULATIONS.

**61.** The commissioner may from time to time prescribe such rules, regulations and forms as may be deemed necessary for the proper carrying into effect of the provisions of this Ordinance. 1901, c. 25, s. 61.

**The commissioner may make rules, etc.**

### ALTERATION OF BOUNDARIES.

**62.** * * * * * * * * * * * *

### NOTICE OF MEETINGS.

**63.** Any notice required by this Ordinance for calling meetings may be published in any newspaper published in the village in addition to being posted as elsewhere provided herein. 1901, c. 25, s. 63.

**Publication of notices**

**64.** Chapter 25 of the Ordinances of 1900 is hereby repealed. 1901, c. 25, s. 64.

**Repeal**

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## SCHEDULE.

### FORM A.

I, *A.B.*, hereby declare that I am of the full age of twenty-one years and have owned or occupied land within the village of for a period of at least three months immediately prior to the date of this election.

1901, c. 25.

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### FORM B.

Village of

I returning officer for the village of make oath that the record of votes hereto attached signed by me is a true record of the votes given at the election of an overseer for the said village held on the day of 1 , when was duly elected overseer of the said village.

Sworn before me at
this day of
1 .

1901, c. 25.

## FORM C.

Know all men by these presents that we
of
and of
are held and firmly bound unto His Honour the Lieutenant Governor of the North-West Territories each in the sum of three hundred dollars of good and lawful money of Canada to be paid by each of us to the said Lieutenant Governor for which payment well and truly to be made we severally bind ourselves and our respective heirs.

Whereas under the provisions of *The Village Ordinance*
was on the
day of 1 duly elected
to the office of overseer in the village of

Now the condition of this obligation is such that if the said
shall at all times until his successor in such office is duly appointed according to law, keep, fulfil, observe and comply with all and every provision of the said Ordinance to which the said
as such overseer is or shall be subject; and truly and faithfully whenever required by law so to do render account and delivery of all moneys and property of any nature which may or but for the default of the said
would have come into his hands as such overseer; and if the said
in all respects faithfully performs his duty as such overseer in said village, then this obligation shall be void but otherwise shall remain in full force and virtue.

Dated the day of 1

Signed, sealed and delivered in the presence of } [Seal]
[Seal]

1901, c. 25.

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### Affidavit of Justification to be Indorsed on Bond.

We, and the sureties in the within bond named, do severally make oath and say as follows:

1. I, the said for myself say that I am worth property situate in the North-West Territories to the value of three hundred dollars over and above what will pay all my just debts and over and above the exemptions allowed by law.

2. And I the said for myself say that I am worth property situate in the North-West Territories to the value of three hundred dollars over and above what will pay all my just debts and over and above the exemptions allowed by law.

The above named
and were
severally sworn before me at
this
day of 1
*N.P.* or *J.P.* 1901, c. 25.

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## FORM D.

Village of .

### Notice of Assessment.

To

Take notice that you have been assessed the sum of $...... in respect of the following property for the year 19

| | |
|---|---|
| Lot................Block.............. | $ |
| Stock................................. | $ |
| Dog tax............................... | $ |
| ...................................... | $ |
| ...................................... | $ |
| Total amount of assesment.... | $ |

Dated at this day of 19

.............................
*Overseer.*

Mailed (*or* delivered) at this day of 19 .

.............................
*Overseer.*
1901, c. 25.

## FORM E.

Village of ,

### Statement and Demand for Taxes.

To

Taxes on the undermentioned property are now due from you for the year 1....to the amount stated hereunder.

| | AMOUNT OF ASSESSMENT. | RATE OF ASSESSMENT. | AMOUNT OF TAXES DUE. |
|---|---|---|---|
| Lot....Block.... | $ | | |
| Stock........... | | | |
| Dog tax........ | | | |
| ............... | | | |
| ............... | | | |

Total amount of taxes due $

Dated at this day of
1

............................
*Overseer.*

Unless above taxes are paid within thirty days from date hereof, the same will be levied with costs by distress in accordance with the provisions of *The Village Ordinance* in that behalf. 1901, c. 25.

## FORM F.

CANADA:
North-West Territories

Village of

Debenture No.

The village of promises to pay to the bearer at the Bank of at the in the Canada, the sum of dollars of lawful money of Canada in equal annual instalments with interest at the rate of per centum per annum in the manner specified in the coupons attached hereto.

Dated this day of A.D. 190

For the said village,

..........................
*Overseer.*

Approved,

..........................
*Commissioner, Public Works, N.W.T.*

Coupon No. $ Debenture No.
The village of will pay to the
bearer at the at
on the day of 19 the
sum of dollars being the
payment of interest with the total interest
at the rate of per centum per annum due on
that day on debenture No.

..........................
Overseer.

(*Similar coupons to be attached for each of the other payments of principal and interest due.*) 1901, c. 25.

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# VILLAGES.

## AMENDMENT.

### An Ordinance to amend Chapter 25 of the Ordinances of 1901, intituled "An Ordinance respecting Villages."

1903, Sess. 2, c. 3
21 Nov., 1903

[*Assented to November 21, 1903.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

**1.** and **2.** * * * * * * * * * * *

**3.** Section 62 of the said Ordinance is hereby repealed. **Section 62 repealed**

**4.** The overseer of every village shall for the purposes of *The Public Health Ordinance* be a sanitary inspector and shall have all the powers and duties of a sanitary inspector under the said last mentioned Ordinance within the village. **Overseer to be sanitary inspector**

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# VITAL STATISTICS.

### An Ordinance respecting the Registration of Births, Marriages and Deaths.

C.O. 1898, c. 14
15 March, 1899

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

### SHORT TITLE.

Short title

**1.** This Ordinance may be cited as *"The Vital Statistics Ordinance."* C. O. 14, s. 1.

### INTERPRETATION.

**2.** In this Ordinance unless the context otherwise requires:

"Minister"

1. The expression "minister" means the member of the executive council administering this Ordinance;

"Department"

2. The expression "department" means the department presided over by the minister administering this Ordinance;

"Occupier"

3. The expression "occupier" where used in sections 8 and 12 of this Ordinance shall be construed to include the master, governor, keeper, warden or superintendent of a gaol prison, penitentiary, lunatic asylum, poor asylum, hospital or other public or private charitable institution. C. O. 14, s. 2.

### ADMINISTRATION.

Administration by Territorial secretary

**3.** The Lieutenant Governor in Council may direct this Ordinance to be administered by any member of the executive council by name or otherwise; and in the absence of any such direction the Ordinance shall be administered by the Territorial secretary. C. O. 14, s. 3.

### REGISTRATION DIVISIONS. REGISTRARS.

Registration divisions

Registrars

**4.** For the purposes of this Ordinance the Lieutenant Governor in Council shall establish divisions for the registration of births, marriages and deaths occurring within the limits of such divisions and shall appoint registrars therefor. C. O. 14, s. 4.

Forms

**5.** The department shall from time to time supply the registrars with the forms necessary for the discharge of the duties herein imposed on them; and it shall be the duty of such registrars to apply to the department for the issue of such forms whenever they may require them.

(2) The costs and expenses of such forms and the expenses attendant upon the distribution thereof shall be paid out of the general revenue fund of the Territories.

(3) In case of the termination of the appointment of any registrar by death, resignation or otherwise all such forms and other matters pertaining to his duties under this Ordinance in his possession or that of his representative shall be forthwith delivered to his successor. C. O. 14, s. 5.

**Monthly returns**

**6.** Each registrar shall within the first week of each month in every year transmit to the department duly certified under his hand the forms containing the original entries of all births, marriages or deaths reported to him during the previous month. C. O. 14, s. 6.

**Registrar's fees**

**7.** Each registrar shall receive a fee to be paid out of the general revenue fund of the Territories of twenty-five cents for each birth, marriage or death reported to him and duly returned to the department as herein provided. C. O. 14, s. 7.

### REGISTRATION OF BIRTHS.

**Persons to register births**

**8.** The father of any child born in the Territories or (in case of his death or absence) the mother or (in case of the death or inability of both parents) any person standing in the place of the parents or if there is no such person then the occupier of the house or tenement in which to his knowledge the child was born or the nurse present at the birth shall within one month from the date of the birth give notice thereof to the registrar of the division in which the child was born giving as far as possible the particulars required in form A in the schedule to this Ordinance with such additional information as may be required by the minister from time to time. C. O. 14, s. 8.

**Registration of illegitimate children**

**9.** In registering the birth of an illegitimate child it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and of the person acknowledging himself to be the father; and in all cases of the registration of the birth of illegitimate children the registrar shall write the word "Illegitimate" in the column set apart for the name of the child and immediately under the name if any. C. O. 14, s. 9.

**Alterations**

**10.** When the birth of any child has been registered and the name (if any) by which it was registered has been altered or (if it was registered without a name) when a name is given it the parent or guardian of the child or other person procuring such name to be altered or given may within two years next after the date of the birth deliver to the department a certificate signed by the clergyman or person who performed the rite of baptism upon which the name was given or altered or (if the child is not baptised) signed by the father, mother or guardian of the child or other person procuring the name of the child to be given or altered; and the necessary alterations shall be made in margin of the form containing the original entry without making any alteration in the original entry. C. O. 14, s. 10.

### REGISTRATION OF MARRIAGES.

Officiating clergyman to report

**11.** Every clergyman, minister or other person authorised by law to celebrate marriages shall be required to report every marriage he celebrates to the registrar of the division within which the marriage is celebrated within one month from the date of the marriage with the particulars required by form B in the schedule to this Ordinance; and in order to better enable the clergyman, minister or other person to make the report as aforesaid he shall be furnished (on demand) by the registrar of the division in which he resides with blank forms containing the particulars required by said form B. C. O. 14, s. 11.

### REGISTRATION OF DEATHS.

Who shall register deaths

**12.** The occupier of the house or tenement in which a death takes place or (if the occupier be the person who has died then) some one of the persons residing in the house in which the death took place or (if the death has not taken place within a house then) any person present at the death or having any knowledge of the circumstances attending the same or the coroner attending any inquest held on such person shall supply to the registrar of the division in which the death took place according to his or her knowledge or belief all the particulars required to be registered touching such death according to form C in the schedule to this Ordinance. C. O. 14, s. 12.

Certificate of registration

**13.** Every registrar shall (immediately upon registering any death or as soon thereafter as he is required so to do) without fee or reward deliver to any person requiring the same for the purpose of burial a certificate according to form D in the schedule to this Ordinance that the particulars of such death have been duly registered. C. O. 14, s. 13.

Clergyman to register deaths, if not registered before burial

**14.** Every clergyman, minister or other person who buries or performs any funeral or religious service for the burial of any dead body (unless he has received a certificate under the hand of the registrar of the division in which the death took place according to form D in the schedule to this Ordinance that the particulars of the death have been duly registered) shall within one month make a return of such death according to form C in the schedule to this Ordinance to the registrar of the division in which the death took place. C. O. 14, s. 14.

Doctor to report cause of death

**15.** Every duly qualified medical practitioner who was last in attendance during the last illness of any person shall (within one month after having notice or knowledge of the death of such person) transmit to the registrar of the division in which the death took place a certificate under his signature of the cause of death according to form E in the schedule to this Ordinance; and it shall be the duty of every such medical practitioner to apply to the said registrar for blank forms for that purpose; and upon the receipt of the certificate from the medical practitioner by the registrar he shall attach the same to the form as provided in form C in the schedule hereto containing the particulars of such death. C. O. 14, s. 15.

Cemetery caretakers to report burials unless previously registered

**16.** Every superintendent, caretaker or owner of any cemetery or burial ground whether public or private permitting any dead body to be interred in the grounds over which he has charge (unless he receives a certificate under the hand of the registrar of the division in which the death took place that the particulars of the death have been duly registered) shall give to the registrar within seven days after the burial a written notice under his hand stating according to his knowledge, information and belief the name and residence of the deceased and the date and place at which the death and burial took place. C. O. 14, s. 16.

### PENALTY FOR DEFAULT OF REGISTERING.

Penalty for neglect of registration

**17.** If any person required by this Ordinance to report births, marriages, deaths or burials refuses or wilfully neglects to do so within the time named such person shall be guilty of an offence and on summary conviction thereof forfeit and pay a sum not less than $1 nor more than $50; and it shall be the duty of registrars to prosecute all such persons so neglecting or refusing to make the required reports within the limits of their respective divisions; but nothing contained in this section shall prevent persons other than registrars from prosecuting defaulters. C. O. 14, s. 17.

### CORRECTION OF ERRORS. SUBSEQUENT REGISTRATION.

Correction of erroneous entry, etc.

**18.** If it is discovered that any error has been made in the entry of any birth, marriage or death then (upon the same being reported to the proper registrar) it shall be his duty to inquire into the same and if satisfied that an error has been committed it shall be lawful for him to make the necessary alteration in the margin of the form containing the original entry without any alteration in such original entry; and if the original entry of such birth, marriage or death has been transmitted to the department he shall report to the department according to the facts of the case so as to secure the correction of such erroneous entry in the margin of the form containing the original entry. C. O. 14, s. 18.

Registration after two years

**19.** Every registration of a birth, marriage or death shall be made within the time specified; but nothing herein contained shall prevent the subsequent registration of such birth, marriage or death within the period of two years.

(2) After the expiration of two years after the date of any birth, marriage or death the particulars of such birth marriage or death shall not be registered except with the written authority of the minister and the fact of such authority having been given shall be entered in the column set apart for remarks in the registration form. C. O. 14, s. 19.

## RETURNS.

Vital statistics returns to be kept in department

Fees for search and certificate

**20.** The returns of births, marriages and deaths shall be transmitted by registrars to the department by registered mail; and shall be arranged, indexed and kept in the archives of the department; and any person shall be entitled to have them searched during the regular business hours of the department on payment of twenty-five cents for each search and to require extracts duly certified by the minister on payment of fifty cents for each such certificate.

(2) In case such searches be required to be made and extracts to be furnished before the returns have been transmitted to the department as required by this Ordinance any registrar shall as to the returns in his possession allow such searches to be made and shall furnish certified extracts on payment to him of the fee or fees as provided in this section; but any registrar who may not have transmitted his returns as required by this Ordinance shall not allow such searches to be made or give such certified extracts after the date when such returns should have been transmitted:

Proviso

Provided that any coroner shall be entitled to have the returns of births, marriages and deaths searched free of charge by the registrar or other officer having charge of such returns in respect of any inquiry pending before him and to receive extracts duly certified therefrom free of charge.

(3) Such certified extracts shall be evidence of the entry and *prima facie* evidence of the facts therein stated in any court. C. O. 14, s. 20.

### REGULATIONS.

**21.** The Lieutenant Governor in Council may from time to time make such further rules, orders and regulations as may be required for the purpose of effectually obtaining the information required by this Ordinance *or such further information as he may deem necessary; and may prescribe additional forms or alter or vary any of the forms in the schedule hereto or substitute new ones therefor.* C. O. 14, s. 21; 1900, c. 2, s. 1.

**Lieutenant Governor in Council may make rules**

### PENALTIES AND PROSECUTIONS.

**22.** Any person who knowingly or wilfully makes or causes to be made a false statement touching any of the particulars required to be reported and entered under this Ordinance shall be guilty of an offence and liable upon summary conviction thereof to a penalty of $25. C. O. 14, s. 22.

**Penalty for false statement**

**23.** For the purpose of proceedings under this Ordinance or any order or regulation made thereunder, every offence against this Ordinance or any such order or regulation shall be deemed to have been committed and every cause of complaint under this Ordinance or any such order or regulation shall be deemed to have arisen either in the place in which the same actually was committed or arose or in any place in which the person charged or complained against happens to be. C. O. 14, s. 23.

**Place of offence hereunder**

# SCHEDULE.

## FORM A.

No......of 1

### REGISTRATION OF BIRTH.

Registration Division of

| | |
|---|---|
| When Born | |
| Name | |
| Sex (male or female) | |
| Name and surname of father | |
| Name and surname of mother. | |
| Rank or profesion of father. | |
| Description and residence of informant. | |
| Name of doctor in attendance (if any). | |
| Remarks. | |

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at the day of 1

*Informant.*

I hereby certify the foregoing to be the true and correct original entry of birth returned to me on the above mentioned date.

Given under my hand at the day of 1

*Registrar.*

## FORM B.

No..........of 1

### REGISTRATION OF MARRIAGE.

Registration Division of

| | |
|---|---|
| | BRIDEGROOM. |
| His name. | |
| Age. | |
| Residence when married. | |
| Place of birth. | |
| Bachelor or widower (B or W). | |
| Rank or profession. | |
| Religious denomination. | |
| Names of parents. | |
| | BRIDE. |
| Her name. | |
| Age. | |
| Residence when married. | |
| Place of birth. | |
| Spinster or widow (S or W). | |
| Religious denomination. | |
| Names of parents. | |
| Names and residences of witnesses. | |
| Date of marriage. | |
| By License or banns (L or B). | |
| Remarks. | |

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at the day of 1

*Officiating Clergyman.*

I hereby certify the foregoing to be the true and correct original entry of marriage returned to me on the above mentioned date.

Given under my hand at the day of 1

*Registrar.*

---

## FORM C.

No..........of 1

### REGISTRATION OF DEATH.

Registration Division of

| | |
|---|---|
| Name and surname of deceased. | |
| When died. | |
| Sex (male or female). | |
| Age. | |
| Rank or profession. | |
| Where born. | |
| Certified cause of death and duration of illness. | |
| Name of physician (if any). | |
| Religious denomination. | |
| Description and residence of informant. | |
| Remarks. | |

I hereby certify the foregoing to be true and correct to the best of my knowledge and belief.

Given under my hand at the day of 1

*Informant.*

I hereby certify the foregoing to be the true and correct original entry of death returned to me on the above mentioned date.

Given under my hand at the day of 1

*Registrar.*

## FORM D.

I, , Registrar of the Registration Division of , do hereby certify that the particulars of the death of have been duly registered.

Given under my hand at this day of 1 .

## FORM E.

Registration Division of

| Name and surname of deceased | Sex | Residence | Rank or Profession | Duration of illness | Cause of death |
|---|---|---|---|---|---|
| | | | | | |

I hereby certify the foregoing to be a true and correct certificate of the cause of the death of the person therein named.

Given under my hand at this day of 1

*M.D.*

# WATER, GAS, ELECTRIC AND TELEPHONE COMPANIES.

1901, c. 21
12 June, 1901

## An Ordinance respecting Water, Gas, Electric and Telephone Companies.

[*Assented to June 12, 1901.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follows:

Application

**1.** The provisions of this Ordinance shall apply to every company organised, incorporated or licensed under any Ordinance of the Territories for all or any of the purposes hereinafter set forth. 1901, c. 21, s. 1.

Consent of municipality or of commissioner of public works required

**2.** No company shall be entitled to the benefit of this Ordinance until it has obtained the consent of the municipal corporation of the city or town within which the powers hereby given are to be exercised by such company; such consent to be by bylaw and to be on such terms and conditions as the bylaw may provide or where the purposes of the company require the exercise of any of the said powers in any area without the limits of any city or town the consent of the commissioner of public works to the exercise of such powers within such area shall also be first had and obtained. 1901, c. 21, s. 2.

Powers of companies

**3.** The company may sell and dispose of meters and gas, water, electric or telephone fittings of every description for the use of any private or public building or for any establishment, company or corporation whatsoever as well as coke, coal tar and all and every the products of their works, refuse or residuum arising or to be obtained from the materials used or necessary for the manufacture of gas or electricity; and every company may let out to hire meters and gas, water, electric or telephone fittings of every kind and description at such rate and rents as may be agreed upon between the consumers or tenants and the company. 1901, c. 21, s. 3.

Disposal of surplus power

**4.** Any electric light company may lease to or enter into any contract with any person or persons or body corporate or politic for the use of any power, engines, wheels or machines run by water, steam, gas or in any other manner erected by such company for the purpose of running or operating electric light plant to the end and intent that such machinery and power may be utilised and employed during the hours when the same is not required for the purpose of furnishing electric light. 1901, c. 21, s. 4.

Laying mains and wires in streets

**5.** Subject to the terms of the consent referred to in section 2 hereof the company may break up, dig and trench and use so much and so many of the streets, squares, highways, lanes and public places of the municipality for supplying which with gas or water or electricity or a telephone system or either of them the company has been incorporated as are necessary for laying the mains and pipes to conduct the gas or water or for placing the wires and connections to conduct the electricity from the works of the company to the consumers or users thereof or make connection with the telephone system doing no unnecessary damage in the premises and taking care as far as may be to preserve a free and uninterrupted passage through the said streets, squares, highways, lanes and public places while the works are in progress. 1901, c. 21, s. 5.

Company's rights regarding mains and pipes

**6.** When any company has laid down or erected mains, pipes, wires or conductors for the supply of gas, water, electricity or a telephone system through any of the streets, squares or public places of any municipality no other person or persons, bodies politic or corporate shall without the consent of the company first had and obtained nor otherwise than on payment to the company of such compensation as may be agreed upon lay down or erect any main, pipe, wire or conductor for the supply of gas, water, electricity or telephone system within six feet of the company's mains, pipes, wires or conductors or if it be impracticable to cut trenches for such other mains or pipes at a greater distance then as nearly six feet as the circumstances of the case will admit. 1901, c. 21, s. 6.

Supplying parts of buildings having different owners or tenants

**7.** When there are buildings within the municipality the different parts whereof belong to different proprietors or are in possession of different tenants or lessees the company may carry pipes, wires or conductors to any part of any building so situate passing over the property of one or more proprietors or in the possession of one or more tenants to convey the gas, water or electricity or connect the telephone system to the property of or in the possession of another. 1901, c. 21, s. 7.

**Breaking up passages, etc.**

**8.** The company may also break up and uplift all passages common to neighbouring proprietors or tenants and dig or cut trenches therein for the purpose of laying down pipes, wires or conductors or taking up or repairing the same doing as little damage as may be in the execution of the powers granted by this Ordinance. 1901, c. 21, s. 8.

**Compensation**

**9.** The company shall make satisfaction to the owners or proprietors of any building or other property or to the municipality or commissioner of public works as the case may be for all damages caused in or by the execution of all or any of the said powers. 1901, c. 21, s. 9.

**Company not to take private property till compensation ascertained**

**10.** No company shall be entitled by virtue of this Ordinance to take possession or make use of private property or to do any work thereon until the amount to be paid for or in respect of such property is ascertained by arbitration or otherwise and is paid or tendered to the parties entitled thereto or is paid into court for their benefit. 1901, c. 21, s. 10.

**Location of works**

**11.** The company shall locate and construct its gas or water works or electric or telephone system and all apparatus and appurtenances thereto belonging or appertaining or therewith connected and wheresoever situated so as not to endanger the public health or safety. 1901, c. 21, s. 11.

**Limitations of powers of company**

**12.** Nothing contained in this Ordinance shall authorise any company or any person acting under its authority to take, use or injure for the purpose of the company any house or other building or any land used or set apart as a garden, orchard, yard, park, paddock, plantation, planted walk or avenue to a house or nursery ground for trees or to convey from the premises of any person any water already appropriated and necessary for his domestic uses without the consent in writing of the owner or owners thereof first had and obtained. 1901, c. 21, s. 12.

**Privileges of other companies**

**13.** Nothing in this Ordinance shall authorise any company to interfere with or infringe upon any exclusive privilege granted to any other company. 1901, c. 21, s. 13.

**Individual rights**

**14.** Nothing in this Ordinance contained shall prevent any person from constructing any works for the supply of gas, water or electricity or for a telephone system to or on his own premises. 1901, c. 21, s. 14.

**Exemption from distress and seizure**

**15.** Neither the service nor the connecting pipes, wires or conductors of the company nor any meters, lustres, lamps, pipes, gas or water or electric or telephone fittings nor any other property of any kind whatsoever of the company shall be subject to or liable for rent or liable to be seized or attached in any way by the possessor or owner of the premises wherein the same may be or be in any way whatsoever liable to any person for the debt of any person to and for whose use or the use of whose house or building the same may be supplied by the company notwithstanding the actual or apparent possession thereof by such person. 1901, c. 21, s. 15.

**Company to supply buildings in line of supply on request**

**16.** When a company has constructed works for supplying any municipality or municipalities with gas, water, electricity or telephones and the company is able so to do it shall be the duty of the company to supply all buildings situate upon land lying along the line of any supply pipe or wire upon the same being requested by the owner, occupant or other person in charge of any such building. 1901, c. 21, s. 16.

**Company may require security from consumers**

**17.** A company before supplying water, gas, electricity or telephones to any building or as a condition to its continuing to supply the same may require any consumer to give reasonable security for the payment of the proper charges of the company therefor or for carrying the water, gas, electricity or telephone system into such building. 1901, c. 21, s. 17.

**Liability for failure of supply not affected**

**18.** Nothing in the next preceding two sections contained shall be construed so as in any way to affect the liability of any company in respect of damages on account of any failure of supply through mischance, accident or mismanagement but the position of the company in respect thereof shall remain as if the said two sections had not been passed. 1901, c. 21, s. 18.

## PROHIBITION AND PENALTIES.

**Nonpayment of rates, etc.**

**19.** If any person supplied by the company with gas, water, electricity or telephone neglects to pay the rent, rate or charge due to the company at any of the times fixed for the payment thereof the company or anyone acting under its authority on giving forty-eight hours' notice to the persons supplied may stop the supply of gas, water or electricity from entering or being supplied to or disconnect the telephone system from the premises of the person in arrear as aforesaid by cutting off the service pipe or pipes, wires or conductors or by such other means as the company or its officers sees fit; and may recover the rent or charge due up to such time together with the expense of cutting off the gas, water, electricity or telephone as the case may be in any competent court notwithstanding any contract to furnish for a longer time. 1901, c. 21, s. 19.

### PENALTIES.

Penalties

**20.** If any person:

1. Wilfully or maliciously breaks up, pulls down or damages, injures, puts out of order or destroys any main, pipe, engine, waterhouse pipe, plug or other work, wire or conductor or apparatus, appurtenance or dependency thereof or any matter or thing made and provided for use in connection therewith or any of the materials used and provided for the same or ordered to be erected, laid down or belonging to any such company; or

2. In anywise wilfully does any other injury or damage for the purpose of obstructing, hindering or embarrassing the construction, completion, maintaining or repairing of the said works or causes or procures the same to be done; or

3. Bathes or washes or cleans any cloth, wool, leather, skin, animals or any nauseous or offensive thing or casts, throws or puts any filth, dirt or any nauseous thing in or causes, permits or suffers the water of any sink, sewer or drain to be run or be conveyed into or causes any other annoyance to be done to the water within any reservoir, cistern, pond, source or fountain from which the water belonging to the company is to be supplied or conveyed; or

4. By any wrongful or improper means increases the supply of gas or water or electricity agreed for with the company; or

5. Wilfully or maliciously damages or causes or knowingly suffers to be damaged any meter, lamp, lustre, wire, conductor, service pipe or fitting belonging to any such company or wilfully impairs or knowingly suffers the same to be altered or impaired so that the meter indicates less gas, water or electricity than actually passes through the same;

such person shall on summary conviction be liable to a penalty not exceeding $50. 1901, c. 21, s. 20.

Entry of premises by employees of company

**21.** In all cases where the company may lawfully cut off and take away the supply of gas, water, electricity or disconnect the telephone system from any house, building or premises the company, their agents or their workmen upon giving forty-eight hours' previous notice to the person in charge or the occupier may enter into the house, building or premises between the hours of nine o'clock in the forenoon and five o'clock in the afternoon making as little disturbance and inconvenience as possible and may remove and take away any pipe, meter, cock, branch, lamp, fitting or apparatus the property of and belonging to the company; and any servant duly authorised by the company may between the hours aforesaid enter any house into which gas, water, electricity or telephone system has been taken or supplied for the purpose of repairing and making good any such house, building or premises or for the purpose of examining any meter, pipe, wire, conductor, apparatus or fitting belonging to the company or used for its gas, water, electricity or telephone; and if any person refuses to permit or does not permit the servants and officers of the company to enter and perform the acts aforesaid the person so refusing or obstructing shall incur a penalty to the company for every such offence not exceeding $20 and a further penalty not exceeding $4 for every day during which such refusal or obstruction continues to be recovered with costs on summary conviction. 1901, c. 21, s. 21.

Removal of fittings, etc., where service discontinued

**22.** Where a customer discontinues the use of the gas or water or electricity or telephone furnished or supplied by any company or the company lawfully refuses to continue any longer to supply the same the officers and servants of the company may at all reasonable times enter upon the premises in or upon which such customer was supplied with gas or water or electricity or telephone for the purpose of removing therefrom any fitting, machine, apparatus, meter, pipe, wire, conductor or other thing being the property of the company in or upon such premises and may remove the same therefrom doing no unnecessary damage. 1901, c. 21, s. 22.

Arbitration where private property required

**23.** Subject to the provisions of section 12 hereof any company deeming it necessary or proper to conduct any of its pipes, wires or conductors or to carry any of the works of the company through the lands of any person lying within or within ten miles of the municipality within which the operations of the company are to be carried on and the consent of such person cannot be obtained for that purpose the company shall proceed to arbitration under the provisions of *The Arbitration Ordinance*; such arbitration to be by two arbitrators one to be appointed by each party.

(2) The arbitrators shall determine the questions in dispute between the parties to the arbitration and shall decide as to the necessity or propriety of conducting any of the pipes, wires or conductors or carrying any of the works of the company through the lands of the other party to the arbitration if such party objects to the same being done and if such decision be in favour of the company or if no such objection is made shall adjudge what sum of money shall be paid to the owner of the property to be taken or used for the aforesaid purposes of any of them. 1901, c. 21, s. 23.

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## WEEDS.

*See* NOXIOUS WEEDS.

## WIFE AND CHILDREN.

*See* COMPENSATION TO FAMILIES.
INSURANCE FOR BENEFIT OF.

## WINDING UP COMPANIES.

*See* COMPANIES WINDING UP.

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## WORKMAN'S COMPENSATION.

1900, c. 13
4 May, 1900

### An Ordinance to Secure Compensation to Workmen.

[*Assented to May 4, 1900.*]

THE Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the Territories enacts as follws:

**Short title**

**1.** This Ordinance may be known and cited as "*The Workman's Compensation Ordinance.*" 1900, c. 13, s. 1.

**Negligence of fellow workman no defence in action against employer**

**2.** It shall not be a good defence in law to any action against an employer or the successor or legal representative of an employer for damages for the injury or death of an employee of such employer that such injury or death resulted from the negligence of an employee engaged in a common employment with the injured employee any contract or agreement to the contrary notwithstanding. 1900, c. 13, s. 2.

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## YOUTHS.

*See* USE OF TOBACCO BY MINORS.

# APPENDIX

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# APPENDIX A.

## THE NORTH-WEST TERRITORIES ACT AND AMENDMENTS.

| | |
|---|---|
| *The principal Act revised to 1904,* | *R. S. C. 50.* |
| *Amending Act 1888, revised* | *51 V., c. 19.* |
| *Amending Act 1891, revised* | *54-55 V., c. 22.* |
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| *Amending Act 1895, revised* | *58-59 V., c. 31.* |
| *Amending Act 1897, revised* | *60-61 V., c. 28.* |
| *Amending Act 1903, revised* | *3 Ed. VII, c. 40.* |
| *Amending Act 1905, in whole* | *4-5 Ed. VII, c. 27.* |

### An Act respecting the North-West Territories.

R.S.C. 1886, c. 50

HER Majesty by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:

#### SHORT TITLE.

**1.** This Act may be cited as "*The North-West Territories Act.*" **Short title**

#### INTERPRETATION.

**2.** In this Act unless the context otherwise requires: **Interpretation**

(*a*) The expression "Territories" means the North-West Territories as defined in this Act; **"Territories"**

(*b*) The expression "The Lieutenant Governor" means the Lieutenant Governor of the North-West Territories; **"Lieutenant Governor"**

(*c*) *The expression "Lieutenant Governor in Council" means the Lieutenant Governor of the Territories, by and with the advice and consent of the Executive Council of the Territories, or in conjunction with the Executive Council of the Territories, as the case may be;* **"Lieutenant Governor in Council" defined**

(*d*) The expression "Supreme Court" means the Supreme Court of the North-West Territories; **"Supreme Court"**

(*e*) The expression "intoxicating liquor" means and includes all spirits, strong waters, spirituous liquors, wines, fermented or compounded liquors or intoxicating fluids; **"Intoxicating liquor"**

(*f*) The expression "intoxicant" includes opium or any preparation thereof, and any other intoxicating drug or substance, and tobacco or tea mixed, compounded or impregnated **"Intoxicant"** with opium, or with any other intoxicating drug, spirit or substance, and whether the same or any of them is liquid or solid;

"Legislative Assembly" defined

*(g) The expression "Legislative Assembly" means the Legislative Assembly of the Territories composed, under the provisions of this Act, of the members elected to represent the several electoral divisions into which the Territories are or from time to time may be divided.* 60-61V., c. 28, ss. 2 and 3.

### GOVERNMENT AND LEGISLATION.

Territories defined

**3.** The Territories formerly known as "Rupert's Land" and the North-West Territory shall, with the exception of such portions thereof as form the Province of Manitoba and the District of Keewatin, continue to be called and known as the North-West Territories.

Lieutenant Governor

**4.** There shall be for the Territories an officer called the Lieutenant Governor, appointed by the Governor in Council, by instrument under the Great Seal of Canada, who shall hold office during pleasure.

His powers

(2) The Lieutenant Governor shall administer the government, under instructions from time to time given him by the Governor in Council or by the Secretary of State of Canada.

Administrator

**5.** The Governor in Council may from time to time appoint an administrator to execute the office and functions of the Lieutenant Governor during his absence, illness or other inability.

Oaths to be taken

**6.** Every Lieutenant Governor or Administrator so appointed shall, before assuming the duties of his office, take and subscribe before the Governor General or before some person duly authorised to administer such oaths, an oath of allegiance and an oath of office similar to those required to be taken by a Lieutenant Governor under *The British North America Act 1867.*

**7.** and **8.** * * * * * * * * * * * * *

Seat of Government

**9.** The seat of government of the Territories shall be fixed and may from time to time be changed by the Governor in Council.

**10.** * * * * * * * * * * * * * * *

**11.** Subject to the provisions of this Act, the laws of England relating to civil and criminal matters as the same existed on the fifteenth day of July in the year of our Lord one thousand eight hundred and seventy, shall be in force in the Territories in so far as the same are applicable to the Territories and in so far as the same have not been or are not hereafter repealed, altered, varied, modified or affected by any Act of the Parliament of the United Kingdom applicable to the Territories, or of the Parliament of Canada, or by any Ordinance of the Lieutenant Governor in Council, *or of the Legislative Assembly.* 60-61 V., c. 28, s. 4.

**Laws of England on July 15, 1870, in force in Territories with certain exceptions**

**12.** All laws and Ordinances in force in the Territories and not repealed by or inconsistent with this Act shall remain in force until it is otherwise ordered by the Parliament of Canada, by the Governor in Council, or by the *Legislative Assembly* under the authority of this Act. 60-61 V., c. 28, s. 5.

**Laws in force continued**

**13.** *The Legislative Assembly shall, subject to the provisions of this Act, or of any other Act of the Parliament of Canada declared to be applicable to the Territories, have power to make Ordinances for the government of the Territories in relation to the classes of subjects next hereinafter mentioned, that is to say:*

**Powers of Assembly**

1. *The mode of providing voters' lists, the oaths to be taken by voters, the appointment, powers and duties of returning officers and deputy returning officers, election and poll clerks, and their oaths of office, the proceedings to be observed at elections, the periods during which such elections may be continued, and such other provisions with respect to such elections as may be thought fit;*

2. *Direct taxation within the Territories in order to raise a revenue for Territorial or municipal or local purposes;*

3. *The establishment and tenure of Territorial offices and the appointment and payment of Territorial officers out of Territorial revenues;*

4. *The establishment, maintenance and management of prisons in and for the Territories—the expense thereof being payable out of Territorial revenues;*

5. *Municipal institutions in the Territories, including the incorporation and powers, not inconsistent with any Act of Parliament, of irrigation districts, that is to say, associations of the land owners and persons interested in the lands in any district or tract of land for the purpose of constructing and operating irrigation works for the benefit of such lands;*

6. *Shop, saloon, tavern, auctioneer and other licenses, in order to raise a revenue for Territorial or municipal purposes;*

7. *The incorporation of companies with Territorial objects, with the following exceptions:*

(*a*) *Such companies as cannot be incorporated by a Provincial Legislature;*

(*b*) *Railway companies (not including tramway and street railway companies) and steamboat, canal, telegraph and irrigation companies;*

8. *The solemnisation of marriage in the Territories;*

9. *Property and civil rights in the Territories;*

10. *The administration of justice in the Territories, including the constitution, organisation and maintenance of Territorial courts of civil jurisdiction, including procedure therein, but not including the power of appointing any judicial officers;*

11. *The imposition of punishment by fine, penalty or imprisonment for enforcing any Territorial Ordinances;*

12. *The expenditure of Territorial funds and such portion of any moneys appropriated by Parliament for the Territories, as the Lieutenant Governor is authorised to expend by and with the advice of the Legislative Assembly or of any committee thereof;*

13. *Generally, all matters of a merely local or private nature in the Territories.*

**Limitation**

(2) *Nothing in this section contained gives, or shall be construed to give, to the Legislative Assembly any greater powers with respect to the subjects therein mentioned than are given to Provincial Legislatures under the provisions of section 92 of "The British North America Act, 1867," with respect to the similar objects therein mentioned.* 54-55 V., c. 22, s. 6; 58-59 V., c. 31, s. 1, and 60-61 V., c. 28, s. 6.

**Ordinances respecting education Majority schools**

**14.** The *Legislative Assembly* shall pass all necessary ordinances in respect to education; but it shall therein always be provided that a majority of the ratepayers of any district or portion of the Territories or of any less portion or subdivision thereof, by whatever name the same is known, may establish such schools therein as they think fit and make the necessary assessment and collection of rates therefor; and also

**Minority schools**

that the minority of the ratepayers therein whether Protestant or Roman Catholic may establish separate schools therein,— and in such case, the ratepayers establishing such Protestant or Roman Catholic separate schools shall be liable only to assessments of such rates as they impose upon themselves in respect thereof. 61 V., c. 5, s. 12.

**15.** * * * * * * * * * *

**Ordinances respecting juries**

**16.** *The Legislative Assembly may, from time to time, make Ordinances in respect to the mode of calling juries, other than grand juries, in criminal as well as civil cases, and when and by whom and the manner in which they may be summoned or taken, and in respect to all matters relating to the same.* 60-61 V., c. 28, s. 7.

**Disallowance of ordinances**

**17.** An authentic copy of every Ordinance shall be transmitted by mail to the Secretary of State within thirty days after its passing; and if the Governor in Council, at any time within one year after its receipt by the Secretary of State, thinks fit to disallow the Ordinance, such disallowance, when signified by the Secretary of State to the Lieutenant Governor, shall annul the Ordinance from and after the date of such signification; and all Ordinances so made and all Orders in Council disallowing any Ordinances so made, shall be laid before both Houses of Parliament as soon as conveniently may be after the making and enactment thereof respectively.

**Submission to Parliament**

**18.** to **25.** * * * * * * * * * * *

## WILLS.

**Wills may be made**

**26.** Every person may devise, bequeath or dispose of by will, executed in manner hereinafter mentioned, all real and personal property to which he is entitled either at law or in equity at the time of his death and which if not so devised, bequeathed or disposed of, would devolve upon his heir-at-law or upon his executor or administrator.

**Testator must be of age**

**27.** No will made by any person under the age of twenty-one years shall be valid.

**Execution of wills**

**28.** No will shall be valid unless it is in writing and executed in manner hereinafter mentioned, that is to say:—it shall be signed at the foot or end thereof by the testator or by some other person in his presence and by his direction; and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses present at the same time; and such witnesses shall attest and shall subscribe the will in the presence of the testator but no form of attestation shall be necessary.

No further publication

**29.** Every will executed in manner hereinbefore required shall be valid without any other publication thereof.

Subsequent incompetency of witness

**30.** If any person who attests the execution of a will is at the time of the execution thereof or at any time afterwards incompetent to be admitted as a witness to prove the execution thereof such will shall not on that account be invalid.

Executor may be witness

**31.** No person shall on account of his being an executor of a will be incompetent to be admitted as a witness to prove the execution of such will or as a witness to prove the validity or invalidity thereof.

Devise to witness to be void, but witness may prove execution

**32.** If any person attests the execution of any will to whom or to whose wife or husband any beneficial devise or legacy affecting any real or personal property (other than a charge for the payment of a debt) is thereby given such devise or legacy shall, so far only as concerns such person attesting the execution of such will, or the wife or husband of such person or any person claiming under such person, wife or husband, be null and void and such person so attesting shall be admitted to prove the execution of such will, or the validity or invalidity of such will notwithstanding such devise or legacy.

Revocation of wills and codicils

**33.** No will or codicil, or any part thereof, shall be revoked otherwise than by marriage or by another will or codicil executed in the manner hereinbefore required or by some writing declaring an intention to revoke the same and executed in the manner in which a will is hereinbefore required to be executed or by the burning, tearing or otherwise destroying the same by the testator or by some person in his presence and by his direction with the intention of revoking the same.

How a will shall be construed

**34.** Every will shall be construed with reference to the real and personal property affected by it to speak and take effect as if it had been executed immediately before the death of the testator unless a contrary intention appears by the will.

When fee simple shall pass

**35.** If any real property is devised to any person without any words of limitation such devise shall be construed to pass the fee simple or other the whole estate or interest which the testator had power to dispose of by will in such real property unless a contrary intention appears by the will.

### MARRIED WOMEN.

**Her own earnings to belong to her**

**36.** All the wages and personal earnings of a married woman and any acquisitions therefrom and all proceeds or profits from any occupation or trade which she carries on separately from her husband or derived from any literary, artistic or scientific skill and all investments of such wages, earnings, moneys or property shall be free from the debts or dispositions of the husband and shall be held and enjoyed by such married woman and disposed of without her husband's consent as fully as if she were a *feme sole,* and no order for protection shall be necessary in respect of any such earnings or acquisitions; and the possession, whether actual or constructive, of the husband, of any personal property of any married woman shall not render the same liable for his debts.

**No order necessary**

**Deposits in bank**

**37.** A married woman may make deposits of money in her own name in any savings or other bank and withdraw the same by her own cheque; and any receipt or acquittance of such depositor shall be a sufficient discharge to any such bank.

**Fraudulent investment not valid**

**38.** Nothing hereinbefore contained in reference to moneys deposited or investments by any married woman shall as against any creditor of the husband give validity to any deposit or investment of moneys of the husband made in fraud of such creditors; and any money so deposited or invested may be followed as if this Act had not been passed.

**Debts of wife before and after marriage**

**39.** A husband shall not by reason of any marriage be liable for the debts of his wife contracted before marriage but the wife shall be liable to be sued therefor and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried; and a husband shall not be liable for any debts of his wife in respect of any employment or business in which she is engaged on her own behalf or in respect of any of her own contracts.

**Suits by and against a married woman**

**40.** A married woman may maintain an action in her own name for the recovery of any wages, earnings, money and property declared by this Act or which is hereafter declared to be her separate property and shall have in her own name the same remedies, both civil and criminal, against all persons whomsoever for the protection and security of such wages, earnings, money and property and of any chattels or other her separate property for her own use as if such wages, earnings, money, chattels and property belonged to her as an unmarried woman; and any married woman may be sued or proceeded against separately from her husband in respect of any of her separate debts, engagements, contracts or torts, as if she were unmarried.

### ADMINISTRATION OF JUSTICE.

Supreme court continued

**41.** The supreme court of record of original and appellate jurisdiction now existing under the name of "The Supreme Court of the North-West Territories" is hereby continued under the name aforesaid.

**42.** *The supreme court shall consist of a chief justice and not less than five puisne judges who shall be appointed by the Governor in Council by letters patent under the Great Seal.* 3-4 Ed. VII., c. 40, s. 1.

Who may be appointed judge

**43.** Any person may be appointed a judge of the court who is or has been a judge of a superior court of any province of Canada, a stipendiary magistrate of the Territories or a barrister or advocate of at least ten years' standing at the bar of any such province or of the Territories.

No other office of emolument to be held

**44.** No judge of the court shall hold any other office of emolument under the Government of Canada or of any province thereof or of the Territories

Residence

**45.** Each judge of the court shall reside at such place in the Territories as the Governor in Council in the commission to such judge or by Order in Council directs.

Tenure of office

**46.** The judges of the court shall hold office during good behaviour, but shall be removable by the Governor General on address of the Senate and House of Commons of Canada.

Oath to be taken

**47.** Every judge shall, previously to entering upon the duties of his office as such judge, take oath in the form following:

Form of oath

I,                    , do solemnly and sincerely promise and swear that I will duly and faithfully and to the best of my skill and knowledge execute the powers and trusts reposed in me as one of the judges of the supreme court of the North-West Territories. So help me God.

**How administered**

(2) Such oaths shall be administered by the Lieutenant Governor or by a judge of the court.

**Jurisdiction within the Territories, civil and criminal**

**48.** The court shall within the Territories and for the administration of the laws for the time being in force within the Territories possess all such powers and authorities as by the law of England are incident to a superior court of civil and criminal jurisdiction; and shall have, use and exercise all the rights, incidents and privileges of a court of record and all other rights, incidents and privileges as fully to all intents and purposes as the same were on the fifteenth day of July, one thousand eight hundred and seventy, used, exercised and enjoyed by any of her Majesty's superior courts of common law or by the court of chancery or by the court of probate in England and shall hold pleas in all and all manner of actions, causes and suits as well criminal as civil, real, personal and mixed and shall proceed in such actions, causes and suits by such process and course as are provided by law and as tend with justice and despatch to determine the same and shall hear and determine all issues of law and shall also hear and ( with or without a jury as provided by law) determine all issues of fact joined in any such action, cause or suit and give judgment thereon and award execution thereof in as full and as ample a manner as might at the said date be done in her Majesty's court of Queen's bench, common bench or in matters which regard the Queen's revenue (including the condemnation of contraband or smuggled goods) by the court of exchequer or by the court of chancery or the court of probate in England

**Sittings of Supreme Court**

**49.** *The court shall sit in banc at such times and places as the Lieutenant Governor in Council appoints; the senior judge present shall preside and three judges of the court shall constitute a quorum.* 61 V., c. 5, s. 3.

**Jurisdiction in banc**

**Appeals**

**50.** The court sitting in banc shall hear and determine all applications for new trials, all questions or issues of law, all questions or points in civil or criminal cases reserved for the opinion of the court, all appeals or motions in the nature of appeals, all petitions and all other motions, matters or things whatsoever which are lawfully brought before it.

Judicial districts

**51.** The Governor in Council may at any time by proclamation divide the Territories into judicial districts and give to each such district an appropriate name and in like manner from time to time alter the limits and extent of such districts.

Territorial jurisdiction of judges

**52.** *Every judge of the court shall have jurisdiction throughout the Territories but shall usually exercise the same within the judicial district to which he is assigned by the Governor in Council and in all causes, matters and proceedings other than such as are usually cognizable by a court sitting in banc and not by a single judge of the said court, shall have and exercise all the powers, authorities and jurisdiction of the court.*

Writs of *certiorari*

(2) *Subject to any statute prohibiting or restricting proceedings by way of certiorari, a single judge shall, in addition to his other powers, have all the powers of the court as to proceedings by way of certiorari over the proceedings, orders, convictions and adjudications had, taken and made by justices of the peace and in addition thereto shall have the power of revising, amending, modifying or otherwise dealing with the same; and writs of certiorari may, upon the order of a judge, be issued by the clerk of the court mentioned in such order returnable as therein directed.* 54-55 V., c. 22, s. 7.

Powers of single judge

**53.** Whenever under any Act in force in the Territories any power or authority is to be exercised or anything is to be done by a judge of a court such power or authority shall in the Territories be exercised or such thing shall be done by a judge of the supreme court unless any other provision is made in that behalf by such Act.

Judges to replace the former stipendiary magistrates

**54.** The judges of the supreme court shall have all the powers, authority and jurisdiction vested in the stipendiary magistrates of the Territories on the second day of June, one thousand eight hundred and eighty-six; and wherever in any Act of the Parliament of Canada relating to the Territories, the words "stipendiary magistrate" or "stipendiary magistrates" are used the same shall mean a judge or the judges of the supreme court, as the case may be.

Sittings where held

**55.** Sittings of the supreme court, which shall be presided over by a judge of the court, shall be held in each judicial district at such times and places as the Lieutenant Governor of the Territories appoints.

**Sheriffs and clerks**

**56.** *For each judicial district the Governor in Council may appoint a sheriff and the Lieutenant Governor in Council may appoint a clerk of the court and may respectively name the place at which such sheriff and clerk respectively shall reside and keep an office; and the clerk of the district within which the seat of government of the Territories is situate shall be registrar of the court sitting in banc.*

**Deputy sherriffs and clerks**

(2) *And each sheriff and clerk shall appoint a deputy or deputies at such places within the district and with such powers as are from time to time determined by an Ordinance of the Legislative Assembly.*

**Vacancies**

(3) *In case of a vacancy happening in the office of sheriff or clerk by reason of death, incapacity or otherwise, his deputy may perform his duties until a successor is appointed; and where there is no such deputy, the judge usually exercising jurisdiction within the judicial district may appoint a person to fill the vacancy in the meantime.*

**Duties, etc., of sherriffs and clerks**

(4) *The Legislative Assembly may, subject to the provisions of this Act, define by Ordinance the powers, duties and obligations of sheriffs and clerks and their respective deputies.* 54-55 V., c. 22, s. 8, and 60-61 V., c. 28, s. 10.

**Seal of the court**

**57.** Each clerk of the court shall use such a seal for sealing processes issued out of the court in the district for which he is appointed as the Lieutenant Governor approves.

**Bond to be given by sheriff**

**58.** Before entering on the duties of his office every sheriff appointed under the provisions of this Act shall give security by bond or by guarantee of some guarantee company approved by the Governor in Council, in the sum of two thousand dollars and every clerk shall give the like security in the sum of one thousand dollars.

**Salaries and fees of sheriffs and clerks**

**59.** *Each sheriff shall be paid a yearly salary of five hundred dollars and the Lieutenant Governor by and with the advice and consent of the Legislative Assembly may legislate with respect to the remuneration, by fees or otherwise, in civil matters, of sheriffs and clerks, including the registrar of the supreme court.* 57-58 V., c. 17, s. 5.

**60.** and **61.** * * * * * * * * * * * * * *

**Sheriffs and clerks to be officers of the court generally**

**62.** Every sheriff and clerk shall be an officer of the supreme court generally and not merely of the judges sitting or acting in his district and shall obey the lawful orders of the said court and of the judges thereof in whatever district such orders are made, provided anything is required to be done under them by the sheriff or clerk in his district.

**Disposal of North-West Mounted Police Force**

**63.** The Lieutenant Governor may, subject to any orders made in that behalf from time to time by the Governor in Council issue orders to the North-West Mounted Police force in aid of the administration of civil and criminal justice and for the general peace, order and good government of the Territories.

**Justices of the peace**

**Property qualification**

**64.** *The Lieutenant Governor may appoint justices of the peace for the Territories who shall have jurisdiction as such throughout the same; but until the Legislative Assembly otherwise provides no person shall be appointed a justice of the peace for the Territories or shall act as such who is not the owner in fee simple for his own use and benefit of lands laying and being in the Territories of and above the value of three hundred dollars over and above what will satisfy and discharge all incumbrances affecting the same and over and above all rents and charges payabe out of or affecting the same, and who has not resided in the Territories for a period of at least three years.*

**Oaths of qualification and office**

(2) *Every justice of the peace for the Territories before he takes upon himself to act as such justice shall take and subscribe before the Lieutenant Governor, a judge of the supreme court or any justice of the peace for the Territories the oath of qualification and the oath of office contained in the schedule to this Act or such other oath or oaths as the Legislative Assembly from time to time prescribes.*

**Police magistrates**

(3) *The Governor in Council may appoint police magistrates in the Territories and such police magistrates shall have all powers and authorities now vested in two justices of the peace under any law in Canada and shall exercise jurisdiction in and for such territory as is defined by the Order in Council appointing them respectively or by any Order in Council amending the same.*

(4) *No person shall be appointed a police magistrate unless he has been admitted and has practised as an advocate, barrister or solicitor in one of the provinces of Canada for a period of not less than three years.* 57-58 V., c. 17, s. 7, and 60-61 V., c. 28, ss. 11, 12, 13.

## ADMINISTRATION OF CRIMINAL LAW.

**Procedure in criminal cases**

**No grand jury**

**65.** The procedure in criminal cases in the court shall subject to any Act of the Parliament of Canada conform as nearly as may be to the procedure existing in like cases in England on the fifteenth day of July in the year one thousand eight hundred and seventy; but no grand jury shall be summoned or sit in the Territories. 49 V., c. 25, s. 28.

**Powers as to certain offences**

**66.** Every judge of the supreme court shall have and exercise the powers of a justice of the peace or of any two justices of the peace under any laws or Ordinances in force in the Territories—and may also hear and determine any charge against any person for any criminal offence alleged to have been committed in the Territories, or (subject to the provisions of section fourteen of the Act passed by the Parliament of Canada in the forty-seventh year of her Majesty's reign and chaptered six) in any territory eastward of the Rocky Mountains wherein the boundary between the province of British Columbia and the Territories has not been officially ascertained, when the accused is charged:

**Larceny, etc.**

(*a*) With having committed or attempted to commit *theft*, embezzlement or obtaining money or property by false pretences, or receiving stolen property, in any case in which the value of the whole property alleged to have been stolen, embezzled, obtained or received, does not, in the opinion of such judge exceed two hundred dollars; or—

**Aggravated assault**

(*b*) With having committed an aggravated assault by unlawfully and maliciously inflicting upon any other person, either with or without a weapon or instrument, any grievous bodily harm, or by unlawfully and maliciously wounding any other person; or

**Assault on a female, etc.**

(*c*) With having committed an assault upon any female whomsoever, or upon any male child whose age does not in the opinion of the judge exceed fourteen years; and when such assault if upon a female does not in his opinion amount to an assault with intent to commit a rape; or—

**Escape from custody**

(*d*) With having escaped from lawful custody or committed prison breach, or assaulted, obstructed, molested or hindered any judge, justice of the peace, commissioned officer of police, constable, bailiff or other peace officer, or officer of customs or excise or other officer in the lawful performance of his duty or with intent to prevent the performance thereof;

(2) The charge shall be tried in a summary way and without the intervention of a jury. 60-61 V., c. 28, s. 14.

**Trial by jury**

**67.** When the person is charged with any other criminal offence the same shall be tried, heard and determined by the judge with the intervention of a jury of six; but in any such case the accused may with his own consent be tried by a judge in a summary way and without the intervention of a jury. 54-55 V., c. 22, s. 9.

**On trial for one offence, conviction may be for another**

**R.S.C., c. 174**

**68.** *Whenever upon a trial before a judge in a summary way, under either section sixty-six or section sixty-seven of this Act such judge is not satisfied that the accused is guilty of the offence with which he stands charged, but the circumstances are such that upon a trial before a jury under The Criminal Procedure Act for the like offence, the jury might find the accused guilty of some other offence, the judge shall have the same power as to findings as a jury would have in the like circumstances under the said last mentioned Act and may convict the accused of such other offence, notwithstanding that such offence is one for which under section sixty-seven aforesaid, the accused could not without his own consent have been tried in a summary way; and the person so convicted shall be liable to the punishment by the said last mentioned Act or otherwise by law prescribed for the offence of which he is so found guilty.* 54-55 V., c. 22, s. 10.

**Notes of evidence**

**Defence by council**

**69.** The judge shall upon every such trial take or cause to be taken down in writing full notes of the evidence and other proceedings thereat; and all persons tried as aforesaid shall be admitted after the close of the case for the prosecution to make full answer and defence by counsel, attorney or agent.

**Sentence of death to be reported**

**Stay of execution**

**70.** When any person is convicted of a capital offence and is sentenced to death the judge shall forward to the Minister of Justice full notes of the evidence with his report upon the case; and the execution shall be postponed from time to time by the judge if found necessary until such report is received and the pleasure of the Governor General thereon is communicated to the Lieutenant Governor.

**Summoning jurors**

**71.** Persons required as jurors for a trial shall be summoned by a judge from among such male persons as he thinks suitable in that behalf; and the jury required on such trial shall be called from among the persons so summoned as such jurors and shall be sworn by the judge who presides at the

**Governor in Council may repeal this section by proclamation**

(2) *The Governor in Council may at any time by proclamation declare that this section shall be repealed from and after the date named in such proclamation.* 57-58 V., c. 17, s. 8.

Peremptory challenges by accused

**72.** *Any one arraigned for treason or an offence punishable with death or an offence for which he may be sentenced to imprisonment for more than five years may challenge peremptorily and without cause any number of jurors not exceeding six; and every peremptory challenge beyond that number shall be void.*

By the Crown

(2) The Crown may peremptorily challenge any number of jurors not exceeding four.

Challenges for cause

(3) Challenges for cause shall be the same as are provided for under *"The Act respecting procedure in criminal cases."* 57-58 V., c. 17, s. 9.

If the list of jurors is exhausted

Tales

Fine for non-attendance

**73.** If by reason of challenges or otherwise the number of jurors summoned for the trial is exhausted the judge shall direct some constable or other person to summon by word of mouth from among the bystanders or from the neighbourhood such number of persons as are necessary to make up a jury,—the persons so summoned being subject to challenge as those summoned by the judge in the first instance; and the like proceeding shall be repeated if necessary until a jury is obtained competent to try the case; and any person summoned as hereby provided to serve as a juror who makes default or refuses to serve as such juror without lawful excuse to the satisfaction of the judge may be fined by him a sum not exceeding ten dollars and committed to prison until such fine is paid.

Witness failing to attend guilty of contempt

**74.** Any person duly summoned whether on behalf of the prisoner or against him to attend and give evidence on any such trial shall be bound to attend on the day appointed for the same and shall remain in attendance throughout the whole trial; and if he fails so to attend he shall be deemed guilty of contempt of court and may be proceeded against therefor.

Proceedings in such case

Fine and imprisonment

**75.** Upon proof to the satisfaction of the judge of the summoning of any witness who fails to attend and upon such judge being satisfied that the presence of such witness before him is indispensable to the ends of justice, he may by his warrant cause the said witness to be apprehended and forthwith brought before him to give evidence and to answer for his contempt; and such witness may be detained on such warrant with a view to secure his presence as a witness or may be released on recognizance with or without sureties conditioned for his appearance to give evidence as therein mentioned and to answer for his contempt; or the judge may in a summary manner examine and dispose of the charge of contempt against the said witness, who if found guilty thereof may be fined or imprisoned or both,—such fine not to exceed one hundred dollars, and such imprisonment to be with or without hard labour and not to exceed the term of ninety days.

Returns to Lieutenant Governor

**76.** Returns of all trials and proceedings civil and criminal shall be made to the Lieutenant Governor in such form and at such times as he directs.

Governor in Council may repeal ss. 67 to 76 inclusive by proclamation

**77.** The Governor in Council may from time to time by proclamation declare that the ten sections next preceding or any of them shall be repealed from and after the date named in such proclamation.

Where convict may be imprisoned

Conveyance of prisoners

Duties and powers of warden

**78.** If imprisonment for any term not less than two years is awarded in any case the convict may be ordered to be imprisoned in any gaol or penitentiary in the Territories or to be conveyed to the penitentiary in the province of Manitoba on the warrant of the judge; and whenever any convict or accused person is ordered to be conveyed to the penitentiary in Manitoba any constable or other person in whose charge he is to be so conveyed may hold and convey him or retake him in case of an escape; and the warden of the penitentiary in Manitoba may detain and deal with him in the said province as if such penitentiary was within the Territories or as if the said convict or accused person had been ordered to be conveyed to such penitentiary by some competent court or authority in the said province.

When prisoner may be placed in custody of N.W.M. Police

**79.** *If it is impossible or inconvenient in the absence or remoteness of any gaol or other place of confinement to carry out any sentence of imprisonment any judge or justice of the peace may sentence any person convicted before him of an offence other than the breach of a municipal bylaw to be placed and kept in the custody of the North-West Mounted Police force with or without hard labour; and any police guard-house or guard-room in the Territories shall be a penitentiary, gaol or place of confinement for all purposes except the confinement of any person sentenced to imprisonment for breach of a municipal bylaw. But if any municipality makes arrangements with the commissioner of the North-West Mounted Police for the maintenance of persons convicted of a breach of any bylaw of such municipality during the period of their sentence the provisions of this section shall thereafter apply to such persons in like manner as to other offenders.* 54-55 V., c. 22, s. 13.

What may be a gaol

**80.** *The Governor in Council may from time to time direct that any building or buildings or any part thereof or any enclosure or enclosures in any part or parts of the Territories shall be a gaol or lock-up for the confinement of prisoners charged with the commission of any offence or sentenced to any punishment or confinement therein; and confinement therein shall thereupon be held lawful and valid whether such prisoners are being detained for trial or are under sentence of imprisonment in a penitentiary, gaol or other place of confinement; and the Governor in Council may at any time direct that any building or any part thereof or any enclosure shall cease to be a gaol or lock-up and thereupon such building or part thereof or such enclosure shall cease to be a gaol or lock-up.*

Gaol discipline

(2) *The Governor in Council shall have power to make rules and regulations for the management, discipline and policy of such gaols or lock-ups and for fixing and prescribing the duties and conduct of the gaoler and every other officer or servant employed therein and for the diet, bedding, maintenance, employment, classification, instruction, discipline, correction, punishment and reward of persons confined therein and to annul, alter and amend the same from time to time; and all gaolers, officers, prisoners and other persons shall be bound to obey such rules and regulations.*

Conditions upon which prisoners are kept

(3) *The Governor in Council shall also have power from time to time to prescribe the terms and conditions upon which persons convicted or accused of any offence under any Ordinance of the North-West Territories or any municipal bylaw or regulation or sentenced to confinement under any such Ordinance, bylaw or regulation or arrested under any civil process, shall be received and kept in any gaol or lock-up created under the authority of this section; and he may from time to time specify what gaols and lock-ups shall be available for the confinement of such persons.* 54-55 V., c. 22, s. 14.

Limitation of time for proceedings

**81.** In all cases in the Territories when proceedings before justices of the peace are authorised to be summary, and when no time is specially limited for making any complaint or laying any information in the Act or law relating to the particular case, the complaint shall be made and the information shall be laid within twelve months from the time when the matter of the complaint or information arose.

## CORONERS AND INQUESTS.

Who shall be coroners

**82.** The Indian commissioner for the Territories, the judges of the supreme court, the commissioner and assistant commissioner of the North-West Mounted Police and such other persons as the Lieutenant Governor from time to time appoints shall be coroners in and for the Territories.

When inquests may be held

**83.** Except as hereinafter provided no inquest shall be held upon the body of any deceased person by any coroner unless it has been made to appear to such coroner that there is reason to believe that the deceased died from violence or unfair means or by culpable or negligent conduct either of himself or of others under such circumstances as require investigation and not through mere accident or mischance.

Deceased prisoners

**84.** Upon the death of any prisoner the gaoler or officer in charge of the gaol wherein such prisoner dies shall immediately give notice to the nearest resident coroner and such coroner shall proceed forthwith to hold an inquest upon the body.

Number of jury

**85.** It shall not be necessary in any case that a coroner's jury shall exceed six persons but in every case of an inquest six jurors must agree in order to render the verdict valid.

Powers of coroners

**86.** Coroners shall have the same powers to summon witnesses and to punish them for disobeying a summons to appear or for refusing to be sworn or to give evidence as are enjoyed by justices of the peace.

Fees

**87.** The fees of coroners, jurors and witnesses attending criminal trials and inquests may be fixed from time to time by the Governor in Council and paid in such manner as he directs.

### ADMINISTRATION OF CIVIL JUSTICE.

Civic jurisdiction of judge

**88.** Every judge of the supreme court shall have jurisdiction, power and authority to hold courts, whether established by Ordinance of the *Legislative Assembly* or not, at such times and places as he thinks proper and at such courts as sole judge to hear all claims, disputes and demands whatsoever except as herein provided which are brought before him and to determine any questions arising thereout as well of fact as of law in a summary manner; and such courts shall be open public courts.

Trial by jury in certain cases

(2) Provided that in cases where the claim, dispute or demand arises out of a tort, wrong or grievance and in which the amount claimed exceeds five hundred dollars or if for a debt or on a contract in which the amount claimed exceeds one

thousand dollars or for the recovery of the possession of real property if either party demands a jury or in any such case in which the judge thinks fit so to direct, he may direct that all questions of fact therein shall be tried and determined by a sworn jury of six in number summoned in the manner hereinbefore provided as to criminal trials.

Reference of disputed accounts

(3) Provided further that in cases of disputed accounts the judge may in place of a trial by jury direct the evidence to be taken by the clerk of any court or by any other competent person; which clerk or other person shall be sworn to take the same truly and to reduce it to writing.

Judgment

(4) The judge may give judgment on the verdict of the jury or upon the evidence taken by the clerk or other person as aforesaid or may order a new trial when justice seems to require the same; and in all cases a judge may give such judgment and make such orders and decrees, interlocutory and final, as in such cases brought before him appear just and agreeable to equity and good conscience; but no court or judge in the Territories shall have jurisdiction in respect of any action for a gambling debt or for the price of any intoxicating liquor or intoxicant, or of any action by any person on any promissory note, bill of exchange, cheque, draft or other document or writing whatsoever the consideration or any part of the consideration for which was a gambling debt or any intoxicating liquor or intoxicant. 60-61 V., c. 28, s. 15.

No action for gambling debts or intoxicants

Judgment, how given

**89.** Every judgment of the judge shall be pronounced in open court as soon as may be after the hearing of the case; except that in any case where the judge is not prepared to pronounce judgment at the close of the trial he may postpone judgment and deliver and enter the same subsequently and such judgment shall be as effectual as if rendered in court at the trial.

Execution of judgment

**90.** The proceedings to carry into effect any such judgment, order or decree, whether interlocutory or final, shall be as prescribed by any Ordinance of the *Legislative Assembly* or if no such Ordinance is in force when any such judgment, order or decree is rendered then in such manner as the judge who pronounced the same directs. 60-61 V., c. 28, s. 16.

Governor in Council may repeal sections 88 to 90 by proclamation

**91.** *The Governor in Council may from time to time by proclamation declare that the three sections next preceding, or any of them, or any portion or portions of the said sections or of any of them, shall be repealed from and after the date named in such proclamation.* 57-58 V., c. 17, s. 10.

## PROHIBITION OF INTOXICANTS.

Intoxicants not to be manufactured etc., without permission

**92.** No intoxicating liquor or intoxicant shall be manufactured, compounded or made in the Territories except by special permission of the Governor in Council; nor shall any intoxicating liquors or intoxicants be imported or brought into the Territories from any province of Canada or elsewhere or be sold, exchanged, traded or bartered or had in possession therein, except by special permission in writing of the Lieutenant Governor.

Customs and exise laws to apply

(2) Intoxicating liquor or intoxicants imported or brought from any place out of Canada into the Territories by special permission in writing of the Lieutenant Governor shall be subject to the customs and excise laws of Canada.

Return of permissions

**93.** The Lieutenant Governor shall make an annual return up to the thirty-first day of December in each year, of the number of such permissions so given by him and the quantity and nature of the intoxicating liquors and intoxicants in each case to the minister of the interior who shall lay the same before Parliament.

Forfeiture of intoxicant

**94.** If any such intoxicating liquor or intoxicants is manufactured or made in the Territories or is imported or brought into the Territories or is sold, exchanged, traded or bartered in violation of the provisions of this Act such liquor or intoxicant shall be forfeited and may be seized by any officer of the customs or excise or by any constable or other duly qualified person wheresoever found; and any judge of the supreme court or justice of the peace, on complaint made before him, may, on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof order such intoxicating liquor or intoxicant so seized to be forthwith destroyed; or if such liquor or intoxicant has not been seized such judge or justice of the peace on complaint as aforesaid may issue a search warrant, as in cases of stolen goods, and upon the same being found, may cause them to be forthwith destroyed; and the still, machinery, keg, barrel, case, box, package or receptacle whence or in which any intoxicating liquor or intoxicant has been manufactured, imported or made, sold, exchanged, traded or bartered and as well that in which the original supply was contained as the vessel wherein any portion of such original supply was supplied as aforesaid and the remainder of the contents thereof if such still, machinery, barrel, keg, case, box, package, receptacle or vessel aforesaid, respectively, can be identified may be seized by any officer

Search warrant may be granted

Still, machinery and receptacle may be seized

And forfeited

Penalty and application thereof

of the customs or excise or by any constable or other duly qualified person wheresoever found within the Territories; and any judge of the supreme court or justice of the peace may on complaint before him and on the evidence of one credible witness that the provisions of this Act have been violated in respect thereof declare such intoxicating liquor or intoxicant, still, machinery, vessel or receptacle forfeited and cause the same to be forthwith destroyed; and the person in whose possession any of them are found shall incur a penalty not exceeding $200 and not less than $50 with costs; and a moiety of such penalty shall belong to the *person laying the information* and the other moiety thereof shall belong to her Majesty for the public uses of Canada.

(2) *Every vehicle on which any such intoxicating liquor or intoxicant is imported or conveyed into or through or over any portion of the Territories contrary to the provisions of this Act shall, together with the horses or other cattle employed in drawing any such vehicle as aforesaid, be forfeited to her Majesty and may be seized and dealt with accordingly.* 51 V., c. 19, s. 18, and 54-55 V., c. 22, s. 15.

Penalty for manufacturing intoxicating liquors, etc., without permission

**95.** *Every person who without special permission as aforesaid issued to him manufactures, makes, compounds, imports, sells, exchanges, trades or barters any intoxicating liquor or intoxicant or in whose possession or on whose premises any intoxicating liquor or intoxicant of any kind is without such special permission issued to him, shall incur a penalty not exceeding $200 and not less than $50, a moiety of which penalty shall belong to the person laying the information.* 54-55 V., c. 22, s. 16.

Penalty for having articles exchanged for intoxicants in possession

**96.** Every person who knowingly has in his possession any article, chattel, commodity or thing purchased, acquired, exchanged, traded or bartered, either wholly or in part for any intoxicating liquor or intoxicant shall for each offence incur a penalty not exceeding $200 and not less than $50, a moiety of which penalty shall belong to the informer.

Forfeiture of things accessory to offence

**97.** Every article, chattel, commodity or thing in the purchase, acquisition, exchange, trade or barter of which the consideration, either wholly or in part, is any intoxicating liquor or intoxicant shall be forfeited to her Majesty and shall be seized as hereinbefore provided in respect to any receptacle of any intoxicating liquor or intoxicant.

Penalty for refusing to assist constable

**98.** Every person who refuses or neglects to aid any constable, subconstable or other duly authorised person in the execution of any act or duty required under any of the six sections next preceding or who knowingly refuses to give information or gives false information in respect to any matter arising therefrom shall incur a penalty not exceeding $200 and not less than $50, a moiety of which penalty shall belong to the informer.

Recovery of penalties

**99.** Every penalty incurred under any of the seven sections next preceding shall be recoverable with costs on summary conviction on the evidence of one credible witness before any judge of the supreme court or justice of the peace, who shall on payment of such penalty and costs pay the informer his share thereof; and in case of nonpayment of the penalty and costs immediately after conviction the convicting judge or justice of the peace may in his discretion levy the same by distress and sale or may commit the person who is so convicted and makes default to any common gaol or house of correction or lock-up house for a term not exceeding six months with or without hard labour unless the said penalty and costs are sooner paid; and upon conviction for a subsequent offence, the offender shall be liable to a penalty not exceeding $400, and not less than $200, payable and recoverable as in this section provided and in the discretion of the convicting judge or justice of the peace to imprisonment with or without hard labour in any common gaol or house of correction or lock-up house for a further term not exceeding six months.

Penalty for a subsequent offence

Conviction, etc., not invalid for want of form

**100.** No seizure, prosecution, conviction or commitment under this Act shall be invalid for want of form so long as the same is according to the true intent and meaning of this Act.

### SALE OF ARMS AND AMMUNITION.

Interpretation

**101.** In this section:

"Improved arm"

(*a*) The expression "improved arm" means and includes all arms except smooth bore shot guns;

"Ammunition"

(*b*) The expression "ammunition" means fixed ammunition or ball cartridge.

(2) Every person who in the Territories:

Supplying arms and ammunition without a permit;—

(*a*) Without the permission in writing (the proof of which shall be on him) of the Lieutenant Governor or of a commissioner appointed by him to give such permission has in his possession or sells, exchanges, trades, barters or gives to or with any person any improved arm or ammunition; or

(*b*) Having such permission sells, exchanges, trades, barters or gives any such arm or ammunition to any person not lawfully authorised to possess the same;

Or to unauthorised persons;

shall on summary conviction before a judge of the supreme court or two justices of the peace be liable to a penalty not exceeding $200 or to imprisonment for any term not exceeding six months or to both.

To be offences, and how punishable

(3) All arms or ammunition which are in the possession of any person, or which are sold, exchanged, traded, bartered or given to or with any person in violation of this section shall be forfeited to the crown and may be seized by any constable or other peace officer; and any judge of the supreme court or justice of the peace may issue a search warrant to search for and seize the same, as in the case of stolen goods.

Search for and seizure of arms and ammunition sold contrary to this section

(4) The Governor in Council may from time to time make regulations respecting :

Regulations by Governor in Council

(*a*) The granting of permission to sell, exchange, trade, barter, give or possess arms or ammunition; — Permits for arms, etc.

(*b*) The fees to be taken in respect thereof; — Fees

(*c*) The returns to be made respecting permissions granted; and — Returns

(*d*) The disposition to be made of forfeited arms and ammunition. — Disposition

(5) The provisions of this section respecting the possession of arms and ammunition shall not apply to any officer or man of her Majesty's forces, of the militia force, or of the North-West Mounted Police force.

Proviso

(6) The Governor in Council may from time to time declare by proclamation that upon and after a day therein named this section shall be in force in the Territories or in any place or places therein in such proclamation designated; and upon and after such day but not before the provisions of this section shall take effect and be in force accordingly.

Section may be proclaimed in force at any place in N.W.T.

(7) The Governor in Council may in like manner from time to time declare this section to be no longer in force in any such place or places and may again from time to time declare it to be in force therein.

And proclamation may be revoked

To be judicially noticed

(8) All courts, judges and justices of the peace shall take judicial notice of any such proclamation.

### APPEALS FROM JUSTICES OF THE PEACE.

Court of Appeal from justices of the peace

**102.** The court of appeal from convictions and orders of justices of the peace in the Territories shall be a judge of the supreme court sitting without a jury; and the clerk of the peace or other proper officer mentioned in the "*Act respecting summary proceedings before justices of the peace,*" shall in the Territories mean the clerk of the supreme court of the judicial district within which such conviction takes place or such order is made.

### LUNATICS.

Removal of lunatics in custody, by order of Lt. Governor

**103.** Whenever under any law or Ordinance in force in the Territories any insane person is kept in custody until the pleasure of the Lieutenant Governor is known or until such person is discharged by law the Lieutenant Governor may cause such person to be removed to and confined in any asylum or place of confinement from time to time designated for that purpose by the Governor in Council and the superintendent or warden of such asylum or place of confinement shall receive such person and detain him therein until the pleasure of the Lieutenant Governor is known or until such person is discharged by law.

Removal of lunatics confined before date specified

(2) The Lieutenant Governor of the province of Manitoba may cause any insane person who came from the Territories and who was confined in a temporary lunatic asylum on the twentieth day of July, one thousand eight hundred and eighty-five, to be removed to the Manitoba lunatic asylum; and the superintendent of the said asylum or the superintendent of such temporary lunatic asylum as the case may be shall detain every such person committed to his keeping until the pleasure of the Lieutenant Governor is known or until such person is discharged by law.

Recapture of lunatics escaping from confinement

**104.** If any insane person confined in such asylum or place of confinement under this Act escapes therefrom any of the officers or servants thereof or any other person or persons at the request of such officers or servants or any of them may within forty-eight hours after such escape if no warrant has been issued and within one month after such escape if a warrant in the form in the schedule to this Act has been issued by the superintendent or warden of such asylum or place of confinement in that behalf retake such escaped person and return him thereto; and he shall remain in custody therein under the authority by virtue of which he was detained prior to such escape.

**105.** The minister of the interior may subject to the approval of the Governor in Council make such arrangements with the Lieutenant Governor of Manitoba as seem reasonable as to the compensation to be made by Canada to that province for the care and maintenance of persons detained in the Manitoba lunatic asylum or in such temporary asylum as aforesaid.

Manitoba to be indemnified for care of lunatics from N.W.T.

SALARIES OF OFFICERS.

**106.** There shall be payable out of the consolidated revenue fund of Canada the following sum annually, that is to say:

Salaries of officers

To the Lieutenant Governor, not exceeding..........$7,000

Together with such sums of money as are from time to time fixed by the Governor in Council in respect of travelling allowances. 51 V., c. 19, s. 17.

Travelling allowances

ROAD ALLOWANCES.

**107.** *All road allowances in townships now or hereafter surveyed and subdivided in the Territories and all road allowances set out on block lines now or hereafter surveyed in the Territories, the plans of survey whereof have been duly approved, shall be subject to the direction, management and control of the Lieutenant Governor in Council for the public use of the Territories subject to any Ordinance made or to be made with respect thereto.* 60-61 V., c. 28, s. 18.

Control of road allowances

**108.** *On the minister of the interior receiving notice from the Lieutenant Governor in Council of any particular thoroughfare or public travelled road or trail in the Territories which existed as such prior to the subdivision of the land into sections and which it is desired to have transferred to the Territories, the Governor in Council may pass an order authorising the survey of such road or trail by a Dominion land surveyor, such survey to be made under instructions from the Lieutenant Governor in accordance with a manual of instructions regarding the manner of making such surveys approved by the*

Survey and transfer of certain roads

*surveyor general of Dominion lands; and upon approval of the returns of such survey by the surveyor general one copy thereof shall be filed in the department of the interior and one in the land titles office for the district within which such road or trail is situated and such road or trail may then be transferred by the Governor in Council for the use of the Territories, subject to any rights which may have been acquired under letters patent issued previous to such transfer.*

(2) *The width of such road or trail shall be one chain or sixty-six feet; and in making the survey the surveyor shall make such changes in the location of the road or trail as he finds necessary for improving it, without however altering its main direction.* 60-61 V., c. 28, s. 19.

GENERAL PROVISIONS.

**Provision when there are no such officers as are designated in Act of Parliament**

**109.** Whenever in any Act of the Parliament of Canada in force in the Territories any officer is designated for carrying on any duty therein mentioned and there is no such officer in the Territories the Lieutenant Governor in Council may order by what other person or officer such duty shall be performed—and anything done by such person or officer under such order shall be valid and lawful in the premises; or if it is in any such Act ordered that any document or thing shall be transmitted to any officer, court, territorial division or place and there is then in the Territories no such officer, court or territorial division or place, the Lieutenant Governor in Council may order to what officer, court or place such transmission shall be made or may dispense with the transmission thereof.

**English and French languages**

**110.** *Either the English or the French language may be used by any person in the debates of the Legislative Assembly of the Territories and in the proceedings before the courts; and both those languages shall be used in the records and journals of such Assembly; and all Ordinances made under this Act shall be printed in both those languages:*

**Proviso: proceedings in Assembly**

*Provided however that after the next general election of the Legislative Assembly such Assembly may by Ordinance or otherwise regulate its proceedings and the manner of recording and publishing the same; and the regulations so made shall be embodied in a proclamation which shall be forthwith made and published by the Lieutenant Governor in conformity with the law and thereafter shall have full force and effect.* 54-55 V., c. 22, s. 18.

**111.** Any copy of any proclamation or order made by the Governor in Council or Ordinance, proclamation or order made by the Lieutenant Governor in Council or by the Lieutenant Governor by and with the advice and consent of the Legislative Assembly of the North-West Territories as the case may be printed in the *Canada Gazette* or purporting to be printed by the Queen's printer for Canada or by the printer to the government of Manitoba at Winnipeg or by the printer to the government of the North-West Territories shall be *prima facie* evidence of such proclamation or order and of the fact that it is in force.

**Certain printed copies of laws, etc., to be evidence**

APPLICATION OF ACTS TO TERRITORIES.

**112.** Every Act of the Parliament of Canada except in so far as otherwise provided in any such Act and except in so far as the same is by its terms applicable only to one or more of the provinces of Canada or in so far as any such Act is for any reason inapplicable to the Territories shall subject to the provisions of this Act apply and be in force in the Territories.

**Application of Acts of Canada**

(2) The Governor in Council may by proclamation from time to time direct that any Act of the Parliament of Canada or any part or parts thereof or any one or more of the sections of any one or more of any such Acts not then in force in the Territories shall be in force in the Territories generally or in any part or parts thereof mentioned in such proclamation.

**Governor in Council may extend Acts to the Territories**

## SCHEDULE.

### WARRANT TO RETAKE ESCAPED PATIENT.

Manitoba Lunatic Asylum (*or as the case may be*).

To and all or any of the peace officers in the *County* (*or as the case may be*) of

Whereas, on the day of last past, being within one month from the date hereof, *A.B.*, an insane person confined in the Manitoba Lunatic Asylum (*or as the case may be*), of which I, am superintendent (*or* warden), did escape from the said asylum (*or as the case may be*):

These are therefore to authorise and command you or any of you the said constables or peace officers, in her Majesty's name, at any time within one month from the date of the said escape to retake the said *A.B.* and safely convey him to this asylum (*or as the case may be*) and deliver him into my charge.

Given under my hand and seal this
day of in the year
at , in the county
aforesaid.

(*Signature.*) [L.S.]
*Superintendent.*

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## OATH OF QUALIFICATION OF A JUSTICE OF THE PEACE FOR THE NORTH-WEST TERRITORIES.

I, *A.B.*, of in the North-West Territories, do swear that I truly and *bona fide* have to and for my own proper use and benefit an estate in fee simple in lands situate in the North-West Territories of such value as doth qualify me to act as a justice of the peace according to the true intent and meaning of the statute in that behalf and that such lands are the following:
So help me God.

Sworn (*or* affirmed) before me,
at this
day of A.D. 18

(*Signature.*)

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## OATH OF OFFICE OF A JUSTICE OF THE PEACE FOR THE NORTH-WEST TERRITORIES.

I, *A.B.*, of in the North-West Territories, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of justice of the peace and will do right to all manner of people after the laws and usages of these Territories, without fear or favour, affection or ill-will.
So help me God.

Sworn (*or* affirmed) before me,
at this
day of A.D. 18

(*Signature.*)

57-58 V., c. 17.

# THE NORTH-WEST TERRITORIES ACT.

## AMENDMENT.

## An Act to amend the Revised Statutes of Canada, chapter fifty, respecting the North-West Territories.

51 V., c. 19
22 May, 1888

[*Assented to May 22, 1888.*]

Preamble
R.S.C., c. 50

WHEREAS it is expedient to amend *"The North-West Territories Act"* as hereinafter provided: Therefore her Majesty by and with the advice and consent of the Senate and House of Commons of Canada enacts as follows:

Certain sections repealed

**1.** Sections seven, eight and ten and sections eighteen to twenty-five, both inclusive, of the Act cited in the preamble are hereby repealed.

Legislative Assembly

**2.** *There shall be a Legislative Assembly for the Territories which shall be composed of twenty-six members elected to represent the electoral districts set forth in the schedule to this Act until the said Legislative Assembly otherwise provides.* 57-58 V., c. 17, s. 15..

Duration of Assembly

**3.** *Every Legislative Assembly shall continue for four years from the date of the return of the writs for choosing the same; but the Lieutenant Governor may at any time dissolve the Assembly and cause a new one to be chosen.* 54-55 V., c. 22, s. 3, and 57-58 V., c. 17, s. 16.

Limit of time for session

Proceedings on bills

**4.** *There shall be a session of the Legislative Assembly convened by the Lieutenant Governor at least once in every year, so that twelve months shall not intervene between the last sitting of the Assembly in one session and its first sitting in another session; and such Assembly shall sit separately from the Lieutenant Governor and shall present Bills passed by it to the Lieutenant Governor for his assent, who may approve or reserve the same for the assent of the Governor General.* 54-55 V., c. 22, s. 4.

**5.** * * * * * * * * * * * * * * * *

Issue of writs for elections

**6.** *Whenever it is necessary to call a new Legislative Assembly or whenever a vacancy occurs by reason of death, resignation or otherwise of an elected member the Lieutenant*

*Governor shall cause a writ or writs of election, as the case may be, to be issued by the clerk of the Legislative Assembly in such form and addressed to such returning officer or officers as he approves of, until otherwise provided by the Assembly.*

Rules for elections

(2) *Until the Legislative Assembly otherwise provides, the Lieutenant Governor shall by proclamation prescribe and declare for use at all or any elections rules for:*

(*a*) *The mode of providing voters' lists;*

(*b*) *The oaths to be taken by voters;*

(*c*) *The appointment, powers and duties of returning and deputy returning officers, election and poll clerks and their oaths of office;*

(*d*) *The proceedings to be observed at elections;*

(*e*) *The periods during which such elections may be continued;*

(*f*) *Such other provisions with respect to such elections as he thinks fit.* 54-55 V., c. 22, s. 5.

Who may vote

**7.** The persons qualified to vote at an election for the Legislative Assembly shall be the male British subjects by birth or naturalisation (other than unenfranchised Indians) who have attained the full age of twenty-one years, who have resided in the North-West Territories for at least the twelve months and in the electoral district for at least the three months respectively immediately preceding the time of voting.

Who eligible for election

**8.** Any British subject by birth or naturalisation shall be eligible for nomination and election.

Deposit at nomination

(2) No nomination at any election shall be valid and acted upon unless at or before the time of nomination a sum of $100 is deposited in the hands of the returning officer; and the receipt of the returning officer shall in every case be sufficient evidence of the payment herein mentioned.

How applied

(3) The sum so deposited shall be returned to the person by whom the deposit was made in the event of the candidate by or on whose behalf it was so deposited being elected or of his obtaining a number of votes at least equal to one-half the number of votes polled in favour of the candidate elected,—otherwise it shall belong to her Majesty for the public uses of the Territories and the sum so paid and not returned as herein provided shall be applied by the returning officer towards the payment of the election expenses and an account thereof shall be rendered by him to the Lieutenant Governor.

**9.** Elected members of the Legislative Assembly shall take and subscribe before the Lieutenant Governor or before such person as is designated by the Governor in Council the following oath of allegiance: Oath to be taken by members

I, *A.B.*, do swear that I will be faithful and bear true allegiance to her Majesty, her heirs and successors.

**10.** *Until the Legislative Assembly otherwise provides a majority of the members shall form a quorum for the transaction of business.* 57-58 V., c. 17, s. 13.

**11.** The Legislative Assembly on its first assembling after a general election shall proceed with all practicable speed to elect one of its elected members to be speaker. Election of speaker

(2) In case of a vacancy happening in the office of speaker by death, resignation or otherwise the Legislative Assembly shall proceed with all practicable speed to elect another of its elected members to be speaker. Vacancy in office of speaker

(3) The speaker shall preside at all meetings of the Legislative Assembly. Speaker to preside

(4) Until the Legislative Assembly otherwise provides, in case of the absence for any reason of the speaker from the chair of the Assembly for forty-eight consecutive hours, the Assembly may elect another of its members to act as speaker and the member so elected shall during the continuance of such absence of the speaker have and execute all the powers, privileges and duties of speaker. Case of absence provided for

**12.** Questions arising in the Legislative Assembly shall be decided by a majority of voices other than that of the speaker and when the voices are equal but not otherwise the speaker shall have a vote. Majority to decide

**13.** * * * * * * * * * * * * * * *

**14.** The Legislative Assembly shall not adopt or pass any vote, resolution, address or bill for the appropriation of any part of the public revenue or of any tax or impost to any purpose that has not been first recommended to the Assembly by message of the Lieutenant Governor in the session in which such vote, resolution, address or bill is proposed. Money votes to be first recommended

**15.** to **18.** * * * * * * * * * * * * * *

**19.** This Act shall be construed as one Act with the Act hereby amended. Construction

# THE NORTH-WEST TERRITORIES ACT.

## AMENDMENT.

**54-55 V., c. 22**
**40 Sept., 1891**

## An Act to amend the Acts respecting the North-West Territories.

[*Assented to September 30, 1891.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**Interpretation**

**1.** In this Act unless the context otherwise requires:

(*a*) The expression "the Act" or "the said Act" means "*The North-West Territories Act,*" chapter 50 of the Revised Statutes;

(*b*) The expression "amending Act" means the Act fifty-first Victoria, chapter nineteen, passed to amend the said Act.

**2.** to **10.** * * * * * * * * * * * * *

**Formal charge**

**11.** In lieu of indictments and forms of indictments as provided by *The Criminal Procedure Act* the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged.

**Record of preliminary investigation before justice to be transmitted to court**

**12.** Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of *The Summary Convictions Act* shall immediately after the conclusion of such investigation transmit to the clerk of the court for the judicial district in which the charge was made all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge and the clerk of the court shall notify the judge thereof.

**Duty of sheriff or gaoler**

(2) Whenever any person charged is committed to gaol for trial the sheriff or other person in charge of such gaol shall within twenty-four hours notify the judge exercising jurisdiction at the time in the judicial district, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon with as little delay

as possible the judge shall cause the prisoner to be brought before him for trial either with or without a jury as the case requires.

**13.** to **18.** * * * * * * * * * * * * *

As to wills and intoxicants

**19.** Notwithstanding anything in this Act or the said Act contained the Legislative Assembly may by Ordinance repeal the provisions of sections twenty-six to forty both inclusive and also in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to this Act the provisions of sections ninety-two to one hundred, also both inclusive, of the said Act together with all amendments thereto and may reenact the said provisions or substitute other provisions in lieu thereof.

Schedule repealed

**20.** The schedule to the amending Act is hereby repealed and the following schedule substituted therefor:

SCHEDULE.

* * * * * * * * * * * * * *

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# THE NORTH-WEST TERRITORIES ACT.

AMENDMENT.

57-58 V., c. 17
23rd July, 1894

## An Act further to amend the Acts respecting the North-West Territories.

[*Assented to July 23, 1894.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

**1.** to **16.** * * * * * * * * * * * * * *

Executive Council of the Territories

**17.** *There shall be a council to aid and advise in the government of the Territories to be styled the Executive Council of the Territories; and the persons who are to be members of that council shall be from time to time chosen and summoned by the Lieutenant Governor and sworn in; and members thereof may be from time to time removed by the Lieutenant Governor.*

# THE NORTH-WEST TERRITORIES ACT.

## AMENDMENT.

54-55 V., c. 22
40 Sept., 1891

## An Act to amend the Acts respecting the North-West Territories.

[*Assented to September 30, 1891.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Interpretation

**1.** In this Act unless the context otherwise requires:

(*a*) The expression "the Act" or "the said Act" means "*The North-West Territories Act,*" chapter 50 of the Revised Statutes;

(*b*) The expression "amending Act" means the Act fifty-first Victoria, chapter nineteen, passed to amend the said Act.

**2.** to **10.**

* * * * * * * * * * * * * *

Formal charge

**11.** In lieu of indictments and forms of indictments as provided by *The Criminal Procedure Act* the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged.

Record of preliminary investigation before justice to be transmitted to court

**12.** Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of *The Summary Convictions Act* shall immediately after the conclusion of such investigation transmit to the clerk of the court for the judicial district in which the charge was made all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge and the clerk of the court shall notify the judge thereof.

Duty of sheriff or gaoler

(2) Whenever any person charged is committed to gaol for trial the sheriff or other person in charge of such gaol shall within twenty-four hours notify the judge exercising jurisdiction at the time in the judicial district, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon with as little delay

as possible the judge shall cause the prisoner to be brought before him for trial either with or without a jury as the case requires.

**13.** to **18.** * * * * * * * * * * * * *

**19.** Notwithstanding anything in this Act or the said Act contained the Legislative Assembly may by Ordinance repeal the provisions of sections twenty-six to forty both inclusive and also in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to this Act the provisions of sections ninety-two to one hundred, also both inclusive, of the said Act together with all amendments thereto and may reenact the said provisions or substitute other provisions in lieu thereof. **As to wills: and intoxicants**

**20.** The schedule to the amending Act is hereby repealed and the following schedule substituted therefor: **Schedule repealed**

SCHEDULE.

* * * * * * * * * * * * * *

## THE NORTH-WEST TERRITORIES ACT.

### AMENDMENT.

### An Act further to amend the Acts respecting the North-West Territories.

**57-58 V., c. 17 23rd July, 1894**

[*Assented to July 23, 1894.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

**1.** to **16.** * * * * * * * * * * * * * *

**17.** *There shall be a council to aid and advise in the government of the Territories to be styled the Executive Council of the Territories; and the persons who are to be members of that council shall be from time to time chosen and summoned by the Lieutenant Governor and sworn in; and members thereof may be from time to time removed by the Lieutenant Governor.* **Executive Council of the Territories**

# THE NORTH-WEST TERRITORIES ACT.

## AMENDMENT.

54-55 V., c. 22
40 Sept., 1891

## An Act to amend the Acts respecting the North-West Territories.

[*Assented to September 30, 1891.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Interpretation

**1.** In this Act unless the context otherwise requires:

(*a*) The expression "the Act" or "the said Act" means "*The North-West Territories Act,*" chapter 50 of the Revised Statutes;

(*b*) The expression "amending Act" means the Act fifty-first Victoria, chapter nineteen, passed to amend the said Act.

**2.** to **10.** * * * * * * * * * * * * *

Formal charge

**11.** In lieu of indictments and forms of indictments as provided by *The Criminal Procedure Act* the trial of any person charged with a criminal offence shall be commenced by a formal charge in writing setting forth as in an indictment the offence wherewith he is charged.

Record of preliminary investigation before justice to be transmitted to court

**12.** Every justice of the peace or other magistrate holding a preliminary investigation into any criminal offence which may not be tried under the provisions of *The Summary Convictions Act* shall immediately after the conclusion of such investigation transmit to the clerk of the court for the judicial district in which the charge was made all informations, examinations, depositions, recognizances, inquisitions and papers connected with such charge and the clerk of the court shall notify the judge thereof.

Duty of sheriff or gaoler

(2) Whenever any person charged is committed to gaol for trial the sheriff or other person in charge of such gaol shall within twenty-four hours notify the judge exercising jurisdiction at the time in the judicial district, in writing, that such prisoner is so confined, stating his name and the nature of the charge preferred against him; whereupon with as little delay

as possible the judge shall cause the prisoner to be brought before him for trial either with or without a jury as the case requires.

**13.** to **18.** * * * * * * * * * * * * *

**19.** Notwithstanding anything in this Act or the said Act contained the Legislative Assembly may by Ordinance repeal the provisions of sections twenty-six to forty both inclusive and also in so far as they apply to the Territories comprising the several electoral divisions mentioned in the schedule to this Act the provisions of sections ninety-two to one hundred, also both inclusive, of the said Act together with all amendments thereto and may reenact the said provisions or substitute other provisions in lieu thereof. **As to wills: and intoxicants**

**20.** The schedule to the amending Act is hereby repealed and the following schedule substituted therefor: **Schedule repealed**

SCHEDULE.

* * * * * * * * * * * * * *

# THE NORTH-WEST TERRITORIES ACT.

AMENDMENT.

## An Act further to amend the Acts respecting the North-West Territories.

**57-58 V., c. 17 23rd July, 1894**

[*Assented to July 23, 1894.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

**1.** to **16.** * * * * * * * * * * * * * *

**17.** *There shall be a council to aid and advise in the government of the Territories to be styled the Executive Council of the Territories; and the persons who are to be members of that council shall be from time to time chosen and summoned by the Lieutenant Governor and sworn in; and members thereof may be from time to time removed by the Lieutenant Governor.* **Executive Council of the Territories**

Trial by judge of provincial court

**9.** The Governor in Council may vest in any judge of any court of any province the power of hearing and determining either in the first instance or on appeal any civil or criminal proceeding arising within the Territories and in case of appeal may prescribe the procedure in respect thereof.

Coroners

**10.** Where in the opinion of a coroner it is impracticable to obtain six jurors he may hold an inquest with a jury of a less number or without a jury and in such case the inquisition shall state that the inquest has been so held with the reasons therefor; and the verdict of the jury if less than six in number shall be unanimous; and if there is no jury the coroner may find such verdict as a jury might have found.

Wills

**11.** A holograph will written and signed by the testator himself though not witnessed shall be valid.

Prohibition of intoxicants

**12.** Every ship, vessel or boat on which any intoxicating liquor or intoxicant is imported or conveyed into or through or over any portion of the Territories contrary to the provisions of the said Act shall be forfeited to his Majesty and may be seized and dealt with accordingly.

Provision when there are no such officers, etc. as are designated by law

**13.** Whenever in the said Act or in any other Act of the Parliament of Canada or in any Ordinance of the Territories any officer is designated for performing any duty therein mentioned and there is no such officer in the Territories, the commissioner may order by what other person or officer such duty shall be performed and anything done by such person or officer under such order shall be valid and lawful in the premises; or if it is in any such Act or Ordinance ordered that any document or thing be transmitted to any officer, court, territorial division or place and there is then in the Territories no such officer, court, territorial division or place, the commissioner may order to what officer, court, territorial division or place such transmission shall be made or may dispense with the transmission thereof.

Provisional liquadator for N.W.T.

**14.** In view of the establishment of the provinces of Saskatchewan and Alberta by Acts of the present session, the Governor in Council may appoint a liquidator whose duty it shall be under the instructions and in accordance with the directions of the Governor in Council, (*a*) to take possession of the properties and assets of the government of the North-West Territories; (*b*) to wind up the affairs of the said gov-

His duties

ernment; (*c*) to liquidate the liabilities of the said government out of and to the extent of any moneys coming into his possession by virtue of his office; and (*d*) to distribute the balance of such moneys and other assets including official records and documents between or among the governments of the provinces of Saskatchewan and Alberta and the government of Canada.

His salary

(2) The salary and allowances of the liquidator may be paid in the first instance out of any unappropriated moneys forming part of the Consolidated Revenue Fund of Canada but shall be a charge upon the properties and assets of the government of the North-West Territories which come into his possession by virtue of his office.

Commencement of Act

**15.** This Act shall come into force on the first day of September, one thousand nine hundred and five .

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# APPENDIX B.

## THE LAND TITLES ACT 1894 AND AMENDMENTS IN PART.

| | |
|---|---|
| *Principal Act 1894 secs. 1 to 15, 92 to 97* | *57-58 V. c. 28.* |
| *Amending Act 1898 sec. 19* | *61 V. c. 32.* |
| *Amending Act 1900 s. 5* | *63-64 V. c. 21* |
| *Amending Act 1905 all* | *4-5 Ed. VII. c. 18.* |

### An Act to consolidate and amend the Acts respecting Land in the Territories.

57-58 V., c. 28
23 July, 1904

[*Assented to July 23, 1894.*]

Preamble

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title

**1.** This Act may be cited as *"The Land Titles Act 1894."*

Interpretation "Land"

**2.** (*a*) The expression "land" means lands, messuages, tenements and hereditaments, corporeal and incorporeal, of every nature and description and every estate or interest therein and whether such estate or interest is legal or equitable, together with all paths, passages, ways, watercourses, liberties, privileges, easements, mines, minerals and quarries if a copy of such writ has not already been delivered or transmitted to the registrar, shall on payment to him of fifty cents by the execution creditor named therein, provided the said writ is in force, forthwith deliver or transmit by registered letter to the registrar a copy of the writ and of all indorsements thereon certified under his hand and seal of office, if any; and no land shall be bound by any such writ until the receipt by the registrar for the registration district in which such land is situated of a copy thereof, either prior to this Act under the law then in force or subsequent hereto; but from and after the receipt by him of such copy no certificate of title shall be granted and no transfer, mortgage, incumbrance, lease or other instrument executed by the execution debtor of such land shall be effectual except subject to the rights of the execution creditor under the writ while the same is legally in force; and the registrar on granting a certificate of title and on registering any transfer, mortgage or other instrument executed by the execution debtor affecting such land shall by memoranda upon the certificate of title in the register and on the duplicate issued by him express that such certificate, transfer, mortgage or other instrument is subject to such rights:

**Proviso: renewal of writs**

*Provided that every writ shall cease to bind or affect land at the expiration of two years from the date of the receipt thereof by the registrar of the district in which the land is situated unless before the expiration of such period of two years a renewal of such writ is filed with the registrar in the same manner as the original is required to be filed with him.*

**Register to be kept of sheriff's writ**

(2) The registrar shall keep a book in convenient form in which shall be entered according to the dates when respectively received a record of all copies of writs received by him from the sheriff or other officer as aforesaid whether so received prior to this Act or subsequent thereto; and such book shall be kept indexed, showing in alphabetical order the names of the persons whose lands are affected by such writs with the day and hour and minute of such receipt. Amd. 63-64 V., c. 21, s. 2.

**Satisfaction of writ, etc.**

**93.** *Upon the satisfaction or withdrawal from his hands of any writ the sheriff or other duly qualified officer shall forthwith transmit to the registrar a certificate under his official seal, if any, to that effect and upon the production and delivery to the registrar of such a certificate or of a judge's order showing the expiration, satisfaction or withdrawal of the writ as against the whole or any portion of the land so bound, the registrar shall make a memorandum upon the cer-*

*tificate of title to that effect if the land has been brought under the provisions of this Act, and if not, upon or opposite to the entry of the writ in the book to be kept under the provisions of the next preceding section; and thenceforth such land or portion of land shall be deemed to be absolutely released and discharged from the writ.* 63-64 V., c. 21, s. 3.

## SHERIFF'S SALES.

Confirmation of Sheriff's sale by court

**94.** No sale by a sheriff or other officer as aforesaid under process of law of any land for which a certificate of title has been granted shall be of any effect until the same has been confirmed by the court or a judge; but when any such land is sold under process of law. the registrar upon the production to him of the transfer of the same in the form U of the schedule to this Act with proof of the due execution thereof and with an order of the confirmation of such sale indorsed upon the transfer or attached thereto shall, after the expiration of four weeks after receiving the same register the transfer, cancel the existing certificate of title wholly or in part if less than the whole of the land comprised therein be sold, grant a certificate of title to the transferee and issue to him a duplicate certificate in the prescribed form, unless such registration is in the meantime stayed by the order of the court or judge and in such case the registration shall not be made except according to the order and direction of the said court or judge.

Registration of transfer of land sold by sheriff

**95.** A transfer of such land so sold under process of law or for arrears of taxes as hereinafter provided shall be registered within a period of two months of the date of the order of confirmation unless in the meantime this period be extended by order filed with the registrar of the court or a judge; and shall cease to be valid as against the owner of the land so sold and any person or persons claiming by, from or through him if not registered within that period or within the time fixed by such order.

Application for confirmation of sale

**96.** The application for confirmation of a sale of such land so made under any process of law may be made by the sheriff or other officer making the sale or by any person interested in the sale on notice to the owner unless the judge to whom the application is made dispensed with such notice: and if the sale is confirmed the costs of confirmation shall be borne and paid out of the purchase money or as the judge directs, but in case the sale is not confirmed the purchase

Costs

If sale is not confirmed

money paid to him shall be refunded to the purchaser; and the judge may make such order as to the costs of all parties to the sale and of the application for its confirmation as he thinks just.

### SALE FOR TAXES.

Transfer of land sold for taxes

**97.** When any land for which a certificate of title has been granted is sold for taxes the purchaser may at any time after the sale lodge a caveat against the transfer of the land; and upon the completion of the time allowed by law for redemption and upon the production of the transfer of the land in the prescribed form for tax sales in the form U in the schedule to this Act with proof of the due execution thereof by the proper officer and a judge's order confirming such sale, the procedure for obtaining which shall be the same as hereinbefore provided in case of a sheriff's sale, the registrar shall after the expiration of four weeks from the delivery to him of the transfer and judge's order of confirmation register the transferee as absolute owner of the land so sold and shall cancel the certificate of title in whole or in part, as the case requires grant a new certificate of title to the transferee and shall issue to the purchaser a duplicate certificate unless the registration has in the meantime been stopped by order of the judge.

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# THE LAND TITLES ACT.

## AMENDMENT.

61 V., c. 32
13 June, 1898

## An Act further to amend The Land Titles Act 1894.

*[Assented to June 13, 1898.]*

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, declares and enacts as follows:

* * * * * * * * * * * * * *

Extinguishing of priorities between execution creditors

**19.** Any provisions heretofore enacted by the Legislative Assembly of the North-West Territories and not repealed with regard to the extinguishing of priorities between execution creditors as against the same execution debtor may be extended by enactment of the said Legislative Assembly to moneys realised by sheriffs under execution as against lands;

and it is hereby declared that the said Legislative Assembly had and has the power to legislate as to the disposal of moneys so realised notwithstanding anything contained in *The Land Titles Act 1894*.

Declaratory as to power of Assembly of N.W.T.

* * * * * * * * * * * * * *

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# THE LAND TITLES ACT.

## An Act to amend The Land Titles Act 1894.

63-64 V., c. 21
7 July, 1900

[*Assented to July 7, 1900.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

* * * * * * * * * * * * * *

Declaratory as to intent of 1886, c. 26, R.S.C., c. 28 and their amending Acts

**5.** It is hereby declared to have been the intention of the Acts known as *The Territories Real Property Acts*, chapter 26 of the Statutes of 1886 and chapter 51 of the Revised Statutes and of the Acts amending the latter Act, as well as that of *The Land Titles Act* chapter 28 of the Statutes of 1894 and of any Act in amendment thereof, that land in the Territories devolving upon the personal representative of a deceased owner thereof should be dealt with and distributed as personal estate and that shall be taken and held to have been the law and the true intent and meaning of the said Acts from the date upon which the said first mentioned Act, chapter 26 of the Statutes of 1886, came into force, that is to say, the first day of January, 1887.

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# THE LAND TITLES ACT.

## An Act to amend The Land Titles Act 1894.

4-5 Ed. VII. c. 18
20 July, 1905

[*Assented to July 20, 1905.*]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Repeal by order in Council of Act in new provinces

**1.** Upon the establishment of a province in any portion of the North-West Territories and the enactment by the Legislature of that province of an Act relating to the registration of land titles the Governor in Council may by order repeal the provisions of *The Land Titles Act 1894* and of any of its amending Acts in so far as they apply to the said province and by such order or by any subsequent order or orders may adjust all questions arising between the government of Canada and the government of the province by reason of the provisions of this section being carried into effect.

Publication of order

(2) No such repealing order shall take effect until it has been published in four consecutive weekly issues of *The Canada Gazette*.

Cancellation of forfeited rights affecting Crown lands

**2.** Where there has been granted for the purposes of any work authorised or licensed under *The North-West Irrigation Act 1898* a right of way through or any other right affecting lands of his Majesty and such right is expressed to be granted for so long as the right of the grantee, his representatives or assigns, to maintain and operate such work continues or to be subject to forfeiture in case such last mentioned right ceases or determines or in case of failure to construct or complete such work or to maintain or operate it, a declaration signed by the minister of the interior or his deputy that the right so granted has determined or been forfeited either entirely or in part, shall be final and conclusive for the purposes of *The Land Titles Act 1894* and shall operate as a cancellation in whole or in part of such grant; and if such grant has been registered, the registrar shall upon receipt of such declaration cancel in whole or in part, as the case may be, the registration of such grant and any certificate of title issued for the right granted thereby.

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# APPENDIX C.

## THE ACT TO REPEAL THE HOMESTEAD EXEMPTION ACT, R.S.C. 52.

57-58 V., c. 29
23 July, 1894

*Principal Act 1894 57-58 V., c. 29.*

An Act to repeal The Homestead Exemption Act.

[*Assented to July 23, 1894.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**Repeal of R.S.C.c. 52, and 1893, c. 19**

**1.** *The Homestead Exemption Act,* chapter 52 of the Revised Statutes, as amended by chapter 19 of the Statutes of 1893, intituled *"An Act to amend The Homestead Exemption Act,"* is hereby repealed.

**Validity of Ordinances Legislative Assembly of N.W.T.**

**2.** Any provisions which have been heretofore enacted by the Legislative Assembly of the North-West Territories and are not repealed purporting to exempt real property in the North-West Territories from seizure by virtue of writs of execution and the validity of which has been questioned or may be open to question by reason of their repugnancy to the provisions of the Act hereby repealed, shall hereafter be deemed to be valid and shall have force and effect as law.

# APPENDIX D.

## THE NORTH-WEST IRRIGATION ACT 1898, AND AMENDMENT.

| | |
|---|---|
| *Principal Act 1898* | *61 V., c. 35.* |
| *Amending Act 1905* | *4-5 Ed. VII c. 26.* |

### An Act to amend and consolidate The North-West Irrigation Acts of 1894 and 1895.

**61 Vic., c. 35 13 June, 1898**

[*Assented to June 13, 1898.*]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**Short title**

**1.** This Act may be cited as *"The North-West Irrigation Act 1898."*

**Interpretation**

**2.** In this Act unless the context otherwise requires:

**"Minister"**

(*a*) The expression "minister" means the minister of the interior;

**"Department"**

(*b*) The expression "department" means the department of the interior at Ottawa;

**"Commissioner"**

(*c*) The expression "commissioner" means the commissioner of public works for the North-West Territories;

**"Chief engineer"**

(*d*) The expression "chief engineer" means the chief engineer and surveyor of the department of public works for the North-West Territories;

"Dominion land surveyor"

(*e*) The expression "Dominion land surveyor" means a surveyor duly authorised under the provisions of *The Dominion Lands Act* to survey Dominion lands;

"Company"

(*f*) The expression "company" means any incorporated company the object and powers of which extend to or include the construction or operation of irrigation or other works under this Act or the carrying on thereunder of the business of the supply or the sale of water for irrigation or other purposes and includes any person who has been authorised or has applied for authority to construct or operate such works or carry on such business or who has obtained a license under section 11 of this Act and also includes any irrigation district incorporated under an Ordinance of the North-West Territories;

"Works"

(*g*) The expression "works" means and includes any dykes, dams, weirs, flood-gates, breakwaters, drains, ditches, basins, reservoirs, canals, tunnels, bridges, culverts, cribs, embankments, headworks, flumes, aqueducts, pipes, pumps and any contrivance for carrying or conducting water or other works which are authorised to be constructed under the provisions of this Act;

"Duty of water"

(*h*) The expression "duty of water" means the area of land that a unit of water will irrigate, which unit is the discharge of one cubic foot of water per second;

"License"

(*i*) The expression "licensee" means any person or company who is granted a license in accordance with the provisions of this Act.

Application

**3.** This Act shall apply to the North-West Territories except the provisional districts of Yukon, Mackenzie, Franklin and Ungava.

Right to use water

**4.** The property in and the right to the use of all the water at any time in any river, stream, watercourse, lake, creek, ravine, canyon, lagoon, swamp, marsh or other body of water shall for the purposes of this Act be deemed to be vested in the crown unless and until and except only so far as some right therein or to the use thereof inconsistent with the right of the crown, and which is not a public right or a right common to the public is established; and, save in the exercise of any legal right existing at the time of such diversion or use no person shall divert or use any water from any river, stream, watercourse, lake, creek, ravine, canyon, lagoon, swamp, marsh or other body of water otherwise than under the provisions of this Act.

Rights of grantee of Crown lands

**5.** Except in pursuance of some agreement or undertaking existing at the time of the passing of this Act, no grant shall be hereafter made by the crown of lands or of any estate in such terms as to vest in the grantee any exclusive or other property or interest in or any exclusive right or privilege with respect to any lake, river, stream or other body of water or in or with respect to the water contained or flowing therein or the land forming the bed or shore thereof.

Right to use waters may be acquired only under this Act

**6.** After the passing of this Act no right to the permanent diversion or to the exclusive use of the water in any river, stream, watercourse, lake, creek, ravine, canyon, lagoon swamp, marsh or other body of water shall be acquired by any riparian owner or any other person by length of use or otherwise than as it may be acquired or conferred under the provisions of this Act unless it is acquired by a grant made in pursuance of some agreement or undertaking existing at the time of the passing of this Act.

Persons already holding right must obtain license

**7.** Every company or person who holds water rights of a class similar to those which may be acquired under this Act or who with or without authority has constructed or is operating works for the utilisation of water, shall obtain a license under this Act before the first day of July, one thousand eight hundred and ninety-eight.

If license is not obtained within stated time

(2) If such license is obtained within the time limited the exercise of such rights may thereafter be continued and such works may be carried on under the provisions of this Act, otherwise such rights or works and all the interest of such person therein shall without any demand or proceeding be absolutely forfeited to her Majesty and may be disposed of or dealt with as the Governor in Council sees fit.

Application for license

(3) Except in case of application for water for domestic purposes as hereinafter provided the application for such license shall be made in the same manner as for other licenses under this Act and the like proceedings shall be had thereon and like information furnished in connection therewith.

Application for water rights which are vested in the Crown

**8.** Any water the property in which is vested in the crown may be acquired for domestic, irrigation or other purposes upon application therefor as hereinafter provided; and all applications made in accordance with the provisions of this Act shall have precedence, except applications under section 7, according to the date of filing them with the commissioner.

Water rights classified

(2) The purposes for which the right to water may be acquired are of three classes, namely: First, domestic purposes, which shall be taken to mean household and sanitary purposes and the watering of stock and all purposes connected with the working of railways or factories by steam but shall not include the sale or barter of water for such purposes; second, irrigation purposes; and third, other purposes.

Rights of riparian proprietors

**9.** No application for any purpose shall be granted where the proposed use of the water would deprive any person owning lands adjoining the river, stream, lake or other sources of supply of whatever water he requires for domestic purposes.

Preliminary work by licensee

**10.** Any person contemplating or projecting any works under this Act may upon submitting a general description of such works and upon payment of a fee of three dollars, obtain from the chief engineer a license to do the necessary preliminary work in connection with the location of such works; and after he obtains such license he may with such assistants as are necessary enter into and upon any public or private lands to take levels, make surveys and do other necessary work in connection with such location, doing no unnecessary damage.

Entering lands

Form of application

**11.** Every applicant for license under this Act except as hereinafter provided shall file with the commissioner the following documents:

Memorial

(*a*) A memorial in duplicate on forms provided by the commissioner in which the applicant shall set forth his name, residence and occupation, his financial standing, the source from which water is to be diverted, the point of diversion, the probable quantity of water to be used, the size and character of the works to be constructed, the area and location of the land to be irrigated, the value of such land in its present state including improvements, the probable number of consumers and the rate, if any, to be charged for water sold; but if the applicant is an incorporated company the memorial shall also set forth the names of its directors and officers and their places of residence, the date of its incorporation, the amount of the company's subscribed capital, the amount of its paid up capital, the proposed method of raising further funds if needed and the purposes for which the company is incorporated;

If applicant is an incorporated company

**Application to cross road allowance or surveyed road**

(*b*) An application on forms provided by the commissioner for the right to construct any canal, ditch, reservoir or other works referred to in the memorial across any road allowance or surveyed public highway which may be affected by such works;

**General plan**

(*c*) A general plan in duplicate on tracing linen drawn to a scale of not less than one inch to a mile showing the source of supply, the position of the point of intake, the location of the main canals or ditches, the tract of land to be irrigated, the name of the owner of each parcel of land crossed by the canal or ditch or by any reservoir or other works connected therewith or to be irrigated therefrom and the position and area of all ponds, reservoirs and basins intended to be constructed for the storage of water; and

**Detail plan**

(*d*) A plan in duplicate on tracing linen showing in detail all headworks, dams, flumes, bridges, culverts or other structures to be erected in connection with the proposed undertaking.

**Additional plans in the case of certain canals**

**12.** In the case of all ditches or canals carrying more than twenty-five cubic feet of water per second in addition to the above information the applicants shall furnish the following maps or plans in duplicate:

(*a*) A longitudinal profile of the ditch showing the bottom and the proposed service water line, the horizontal scale being not less than one inch to four hundred feet and the vertical scale not less than one inch to twenty feet;

(*b*) A plan showing cross sections at a sufficient number of points to fully illustrate all the different forms which the ditch when constructed will take, particularly on sidehills or elsewhere where any portion of the water is to be conveyed in fill. When water is to be conveyed in cut there shall also be shown on this plan cross sections at points where the shortest horizontal distance from either side of the bottom of the ditch to the surface of the ground is less than double the bottom width of the ditch at that point. This plan shall be drawn on a horizontal and vertical scale of one inch to twenty feet;

**Plans of works in connection with reservoir**

(*c*) Plans of any dams, cribs, embankments or other works proposed to obstruct any river, stream, lake or other source of water supply, or in order to create a pond, reservoir or basin of water anywhere or which may have that effect, prepared on a longitudinal scale of not less than one inch to one hundred feet and for cross sections on a scale of not less than one inch to twenty feet showing what material is intended to be used and how placed in such works. The timber, brush, stone, brick or other material used in such works shall be shown in detail to a scale of not less than one inch to four feet;

Plans of grounds under reservoir

(*d*) Cross section maps or plans showing the surface of the ground under such pond, reservoir or basin of water and also the surface of the water proposed to be held therein; the horizontal scale of the said maps or plans shall be not less than one inch to one hundred feet; and the vertical scale shall be not less than one inch to twenty feet; and a sufficient number of lines of levels shall be shown so that the contents of the pond, reservoir or basin of water may be accurately determined. If the maps or plans show the levels by contour lines they shall be on a scale sufficiently large that the contour lines shall show a vertical distance between them not exceeding one foot. The maps or plans shall have sufficient information to show clearly the property likely to be affected by the creation of such ponds, reservoirs or basins of water and the manner in which affected and shall show in detail on a scale of not less than one inch to four feet the proposed manner of controlling and drawing off the water from any such pond, reservoir or basin.

Memorials and plans to be opened for inspection

**13.** The memorials and plans filed as above perscribed, or a true copy thereof, shall be open for examination by the public at all times in the department and at the office of the commissioner at Regina.

Filing elsewhere

**14.** In any case in which he thinks proper the minister may direct that a copy of the memorial and plans shall be filed in such other place or with such other official or person as he names for that purpose and such copy also shall be open to public inspection.

Public notice of application

**15.** Public notice of the filing of the memorial and plans shall forthwith be given by the applicant in some newspaper published in the neighbourhood, to be named by the commissioner, not less than once a week for a period of thirty days, within which time all protests against granting the rights applied for shall be forwarded to the minister and such notice shall contain a statement of the nature of the rights applied for and the general character and location of the proposed works.

Protests to be considered by minister

(2) The minister after considering all protests filed may authorise as hereinafter provided the construction of the proposed works with such changes or variations as he deems necessary.

**16.** The memorial and plans filed with the commissioner as herein provided shall be examined by the chief engineer and after having been approved by him one copy shall be forwarded for record purposes in the department; and upon receipt of such memorial and plans properly approved, together with a certificate that the proper notice of the filing of such memorial and plans has been published and that permission has been granted by the commissioner to construct such works across road allowances or surveyed public roads affected thereby the minister may authorise the construction of the proposed works, fixing in such authorisation a term within which the construction of the works is to be completed.

**Memorial and plans to be examined and approved**

(2) Any changes and variations ordered by the minister regarding the plans of the proposed works must be filed by the applicant in the office of the commissioner and shall form a portion of the record open for public inspection.

**Changes in plans to be filed**

(3) No material deviation from the plans filed shall be made without permission and any question arising as to whether any deviation is material or otherwise shall be decided by the chief engineer or such other officer as the minister designates.

**Deviation from plans**

**17.** In the case of applications for water for domestic or irrigation purposes the minister may if he sees fit waive the necessity for filing the plans required by section 11 of this Act and may require the applicants to file a memorial only, but he may order that such memorial shall contain all the information necessary to a full and complete understanding of the rights applied for.

**Filing of plans may be waived in certain cases**

**18.** Any works authorised under this Act shall if the minister so determines be constructed subject to inspection during construction by the chief engineer or any other officer to be named by the minister; and the cost of such inspection or such portion thereof as the minister decides shall be borne by the person or company constructing such works.

**Inspection of works**

(2) Should any person residing on or owning land in the neighbourhood of any works, either completed or in course of construction, apply to the minister in writing desiring an inspection of such work the minister may order an inspection thereof.

**Inspection on application of proprietor near works**

(3) The minister may require the applicant for inspection to make a deposit of such sum of money as the minister thinks necessary to pay the expenses of an inspection, and in

**Deposit to be made by applicant**

case the application appears to him not to have been justified may cause the whole or part of the expenses to be paid out of such deposit.

Enforcing payment of costs

(4) In case the application appears to the minister to have been justified he may order the person or company to pay the whole or any part of the expenses of the inspection and such payment may be enforced as a debt due to her Majesty.

Works to be made secure

(5) Upon any inspection under the provisions of this section the minister may order the person or company to make any addition or alteration which he considers necessary for their security to or in any works of the person or company, and noncompliance with such order may be dealt with in the same manner as is provided with respect to an order of the minister under section 40 of this Act.

(6) Provided that where under section 17 the minister waives the necessity for plans this section shall not apply.

When work may be commenced

Powers under c. 29 of 1888

**19.** The person or company immediately after the receipt of the authorisation may proceed with the construction of the works authorised, and for the purposes of such construction shall have the powers conferred by *The Railway Act* upon railway companies so far as the same are applicable to the undertaking of the person or company and are not inconsistent with the provisions of this Act or with the authority given to the person or company, the provisions conferring such powers being taken for this purpose to refer to any work of the person or company where in the said Act they refer to the railway.

Time for commencing works limited

**20.** The construction of any work authorised under this Act shall be commenced not later than two months after the date of the authorisation unless such two months expire between the first day of November and the first day of May following, in which case the time of commencement shall not be later than the first day of May following and shall proceed continuously until sufficiently completed to supply water to all applicants within the area described in the authorisation, provided there is sufficient water available for that purpose; and the minister or such officer as he designates shall be the sole arbiter as to whether the work is being prosecuted with sufficient vigour.

Extension of time in case of disaster

(2) Should any unforeseen disaster intervene to prevent the construction or completion of the works within the time

limited, or for any other reasons which he deems sufficient, the minister may authorise an extension of time for the commencement or completion of the works.

**Forfeiture of right if works are not completed within time limited**

(3) Upon the expiration of the time limited for the completion of the works the rights granted to the person or company shall cease and determine, except in so far as they are necessary for effectually operating the works then completed; and any works at the date of such forfeiture constructed or acquired may be taken over and operated or disposed of by the minister in the manner and upon the terms hereinafter provided.

**Power to take lands**

**21.** Lands required for the works of the person or company as shown by the maps and plans filed in whomsoever they are vested whether in her Majesty or in any person or company under this Act or in any railway company or in any other person whomsoever or any interest in or right or privilege with regard to such land which is so required may be taken and acquired by the person or company; and to this end all the provisions of *The Railway Act* which and so far as they are applicable to such taking and acquisition shall apply as if they were included in this Act, the minister of the interior and the department of the interior being substituted for the minister of railways and canals and the department of railways and canals, respectively, wherever in the provisions of the said Act the latter minister and department are referred to:

Provided that the minister of the interior may impose such terms and conditions as he thinks proper in the public interest in connection with the acquisition under this section of any lands which are vested in any person or company under this Act or in any railway company or of any interest in such lands or any right or privilege affecting such lands.

**Compensation for damages**

(2) All the provisions of *The Railway Act* which are applicable shall in like manner apply to fixing the amount of and the payment of compensation for damages to lands arising out of the construction or maintenance of the works of the person or company or the exercise of any of the powers granted to the person or company under this Act.

**Maps, etc., to be certified and filed**

**22.** All maps, plans and books of reference showing any lands other than crown lands necessary to be acquired under the provisions of this Act by any person or company for right of way or for any purpose in connection with the construction and maintenance of their works must be signed and certified correct by a duly qualified Dominion land surveyor. Such maps, plans and books of reference shall be prepared in duplicate and one copy shall be filed in the office of the commissioner and the other registered by the applicant in the land titles office for the registration district within which the lands affected by such surveys are situated.

Disputes as to lands taken

**23.** The minnister or such officer as he designates shall in case of dispute be the sole arbiter as to the area of land which may be taken by the person or company without the consent of the owner for any purpose in the construction or maintenance of their work.

Inspection of works on completion and issue of certificate for license

**24.** Upon the expiration of the time mentioned in the authorisation for the construction of any works or at any time before such date if the construction is sooner completed an inspection shall be made by the chief engineer or such other officer as the minister appoints; and a certificate shall be issued by the chief engineer and be forwarded to the department setting forth that the works have been completed in accordance with the application, that the right of way for the works has been obtained, that agreements have been entered into for the supply of water for irrigation of lands which are not the property of the applicant, and that the works as constructed are capable of carrying and utilising a stated quantity of water.

License

(2) Upon receipt of such certificate the minister shall issue a license to the applicant for the quantity of water to which he is entitled and such license shall be recorded in the office of the commissioner at Regina.

Priority of right

Settlement of disputes

**25.** Licensees shall have priority among themselves according to the number of their licenses so that each licensee shall be entitled to receive the whole of the supply to which his license entitles him before any licensee whose license is of a higher number has any claim to a supply; and if a complaint is made to the minister or to an officer authorised by him to receive such complaints that any licensee is receiving water from a source of supply to which another licensee is entitled by virtue of priority of right and that the licensee having such priority of right is not receiving the supply to which he is entitled some officer to be named by the minister or the officer to whom complaint is so made, as the case may be, shall inquire into the circumstances of the case and if he finds that there is ground for the complaint shall cause the head-gates of the ditch or other works of the licensee who is receiving an undue supply of water to be closed so that the supply to which the other licensee is entitled shall pass and flow to his works.

**Licensee's rights limited by capacity of works**

**26.** When any works for carrying water are not of sufficient capacity to carry the quantity of water acquired by their owner his exclusive right shall be limited to the quantity which such ditch, flume or other contrivance is capable of carrying; and in case of dispute as to such quantity the minister may order an inspection of the works; and the report and finding of the inspecting officer as to the capacity thereof shall for the purpose of this section be final and conclusive.

**Cancellation of license and reservation of water right in certain cases**

**27.** When the land to be irrigated by the water granted to a licensee is land for which letters patent from the crown have not been issued, being held by the licensee under a homestead or other conditional entry or a lease in accordance with the provisions of *The Dominion Lands Act* or under an agreement to purchase such land the license for such water shall be cancelled upon receipt by the minister of a certificate of the cancellation of such homestead or other conditional entry, lease or sale agreement; but the water right necessary for the irrigation of such land may be reserved for such time as the minister determines and may be disposed of, together with all works connected therewith, to the next occupant or purchaser of such land upon such terms and conditions as the minister determines; and the new license issued for such water shall have the same number and hold the same priority of right as the original or cancelled license.

**Information to be afforded to inspecting engineer**

**28.** Every person and every company and the officers and directors thereof shall afford to any inspecting officer such information as is within their knowledge and power in all matters inquired into by him and shall submit to such inspecting officer all plans, specifications, drawings and documents relating to the construction, repair or state of repair of the works or any portion thereof.

**Proof of his authority**

(2) The production of instructions in writing signed by the minister or his deputy or the secretary of the department of the interior shall be sufficient evidence of the authority of such inspecting officer.

**Penalty for obstructing him**

**29.** Every person who wilfully obstructs an inspecting officer in the execution of his duty shall be liable on summary conviction to a penalty not exceeding twenty dollars or to imprisonment for a term not exceeding two months, with or without hard labour, or to both.

Penalty for obstructing engineer or surveyor

**30.** Every person who interrupts, molests or hinders in his work any engineer or Dominion land surveyor engaged in making surveys or levels or in other operations in connection with any work authorised under this Act is guilty of an offence and liable on summary conviction to a penalty not exceeding twenty dollars or to imprisonment for a term not exceeding two months or to both.

Penalty for improper diversion by any person

**31.** Every person who wilfully without authority takes or diverts any water from any river, stream, lake or other waters or from any works authorised under this Act or who takes or diverts therefrom any greater quantity of water than he is entitled to is guilty of an offence and liable upon summary conviction to a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water improperly diverted or to imprisonment for a term not exceeding thirty days or to both.

Penalty for improper diversion of water

**32.** No licensee shall divert more water than the quantity actually granted by his license and any licensee so doing shall be guilty of an offence punishable on summary conviction by a fine not exceeding five dollars per day or fraction of a day for each unit or fraction of a unit of water so diverted.

Dispute as to quantity of water diverted

(2) In case of dispute as to the quantity of water diverted the minister may order an inspection of the works of the licensee by an officer named by him for that purpose and for the purposes of this section the report and finding of such officer as to the quantity diverted shall be final and conclusive.

Forfeiture of licensee's rights by waste or nonuser

**33.** When any licensee abandons or ceases to use or wastes any water to which his license entitles him and any charge of such abandonment or ceasing to use or wasting waste water is made to the minister, such charge may be inquired into by him or by any person or officer appointed by him for that purpose; and the minister if he deems just and proper may by order declare a forfeiture of the license, and the license so ordered or declared to be forfeited shall be cancelled and shall cease and determine.

Disposal of surplus water to applicants

**34.** Any licensee shall dispose of any surplus water flowing in his works which is not being utilised or used for the purposes authorised to any person applying therefor for irrigation purposes and tendering payment for one month in advance at the regular prices.

(2) Persons so applying shall pay an amount equal to the cost and expense of the works required to convey the surplus water to them or shall themselves construct such works; and until this is done the delivery of surplus water need not be made.

Payment by applicant

(3) When the necessary works have been constructed and the payment or tender herein provided for has been made, the applicant shall be entitled to the use of so much of the surplus water as such works have the capacity to carry.

Quantity of water to which the applicant is entitled

(4) Nothing in this section shall be construed to give to any person acquiring the right to use surplus water any right to the said surplus water when it is needed by the licensee for the purposes authorised, or to waste or sell or dispose thereof after being used by him, or shall prevent the original owners from retaking, selling or disposing thereof in the usual or customary manner after it has been so used as aforesaid.

Limitation

**35.** No licensee undertaking to sell water conveyed by his works shall subsequent to the first four years after the construction of such works as are necessary to convey the water to the user discriminate between the user of such water regarding the price thereof.

No discrimination in prices after stated time

(2) If from any cause the whole amount of water agreed to be supplied by a licensee is not available then each user shall have furnished to him by the licensee so much water as shall bear to the available water the same proportion as his usual supply bears to the whole amount agreed to be furnished.

If supply of water is insufficient

(3) Any licensee violating these provisions shall be guilty of an offence against this Act and liable upon summary conviction to a fine not exceeding one thousand dollars for each and every such offence or to imprisonment for a period not exceeding two months or to both.

Penalty

**36.** The minister may grant to any licensee the right to store for irrigation purposes during periods of floods or high water or during those portions of the year when water is not required for irrigation purposes any water not being used during such periods.

Storage of water

(2) Should there be any works for the carriage of water which are not being utilised to their full capacity by their owner and which can with advantage be utilised to carry the whole or any portion of the water desired to be stored any portion of the distance it is required to be so carried or conducted without interfering with the use made of the said

Utilisation for that purpose of existing works

works by their owner, then the said works shall be placed at the disposal of the licensee desiring to so use it; and if the parties cannot agree upon the compensation to be paid for such service, the minister may fix the rate to be paid therefor.

Highway crossings

**37.** Any person or company constructing any works under the provisions of this Act shall during such construction keep open for safe and convenient travel all public highways theretofore publicly travelled as such, when they are crossed by such works and shall before water is diverted into, conveyed or stored by any such works extending into or crossing any such highway construct to the satisfaction of the minister a substantial bridge not less than fourteen feet in breadth with proper and sufficient approaches thereto over such works; and every such bridge and the approaches thereto shall be always thereinafter maintained by such person or company.

Unit of measurement

**38.** Under this Act the discharge of one cubic foot of water per second shall be the unit of measurement of flowing water and the cubic foot or acre foot the unit of measurement of quantity. The acre foot is equivalent to forty-three thousand five hundred and sixty cubic feet.

Annual return of company

**39.** Companies obtaining a license under this Act shall on or before the thirty-first day of January in each year make a return to the minister attested by the oath of its president and secretary, for the year ending the thirty-first day of December preceding, showing:

The amount expended on construction;
The amount expended on repairs;
The amount received from shareholders;
The amount of bonds issued;
The amount received for water supply for irrigation;
The amount received from other sources;
The amount of dividend declared and paid;
The amount of capital stock authorised;
The amount of capital stock subscribed;
The amount of capital stock paid up to date;
The amount of bonded indebtedness;
The rate of interest bonds bear;
The amount bonds sold for;
The amount of indebtedness other than bonds and the rate of interest such indebtedness is bearing;
The cost of management;
A statement of the works and their extent and character;

The number of miles of canals, ditches, etc.;
The number of users;
The number of acres actually under irrigation;
The number of acres of irrigable land in the system;
The names of officers and employees;
The proposed extensions during ensuing years and the acreage to be covered thereby;
Such other data as the Governor in Council sees fit to order.

Copy of bylaws

(2) Attached to such annual return shall be a copy of the bylaws of the company showing all amendments thereto during the year covered by the said return.

Exception

(3) The returns required by this section may be waived by the minister in the case of a private person supplying water solely to himself.

Order by minister in case of complaint against licensee

**40.** When a complaint under oath of the complainant and of at least one witness is made to the minister or the commissioner by a consumer of water who has paid his rates, that a licensee who has engaged or is under obligation to supply him with water is failing to do so or is failing to keep his works in proper condition, the minister or some person or officer appointed by him for the purpose may make immediate inquiry and take all necessary steps to ascertain the truth of the complaint and if he considers the complaint established, may order and direct that the licensee shall take forthwith such action as he considers necessary in order as far as possible to remove the cause of complaint.

Reference to judge

(2) If the licensee fails to obey such order the minister shall forthwith issue a certificate to that effect, reciting all the facts, which certificate being presented to the judge of the supreme court for the judicial district within which such works lie, the judge shall hear and determine the matter in a summary manner and shall order the licensee to proceed with all despatch to take such measures as he considers necessary in the premises; and refusal or neglect to obey any order made by a judge under this section may be treated and punished as contempt of court and such other proceedings may be had and taken thereon as in the case of noncompliance with any other mandatory order of the said court or a judge thereof.

Refusal to obey order of judge

Amalgamation of companies

**41.** The Governor in Council may authorise two or more companies whose works are contiguous to unite and form one company with a view to providing increased water supply and extending their works, when he is satisfied that the holders of more than fifty per cent. of the capital stock of each company are in favour of the union, that users dependant upon the water supply will not be injured and that the companies to be united have the necessary financial means for carrying out the proposed undertaking—the same particulars being furnished to the Governor in Council as are required to be furnished upon an application for authorisation to construct works under this Act; and public notice of the authorisation of the united companies and their proposed works shall be given in the manner prescribed under section 15.

Minister may issue summons

Penalty for disobeying it

**42.** The minister or any one specially authorised by him may when he deems it necessary for the satisfactory carrying out of the provisions of this Act or the regulations to be framed under it summon before him any person by subpœna, examine such person under oath and compel the production of papers and writings; and for neglect to obey such summons or refusal to give evidence or to produce the papers or writings demanded of him the minister or the person authorised may by warrant under his hand order the person in default to be imprisoned in the nearest common jail as for contempt of court for a period not exceeding fourteen days.

Before whom affidavits may be taken

**43.** All affidavits, oaths, solemn declarations or affirmations required to be taken under this Act or any regulations made thereunder may be taken before the chief engineer or any persons specially authorised by the minister to take them, or any other persons authorised to take affidavits in the North-West Territories and the minister may require any statement called for under this Act or under any such regulation to be verified by oath, affidavit, affirmation or declaration.

The minister may order surveys, etc.

**44.** The minister may take such steps as he deems necessary at any time to secure a complete or partial survey of the sources of the water supply for irrigation and other purposes, with an estimate of the extent and location of irrigable lands and of the site or sites suitable for ponds, basins and reservoirs for water storage and may reserve lands forming such sites from general sale and settlement and dispose thereof by sale or lease to be utilised for purposes within the purview of this Act. He may also take such steps as he thinks necessary to protect the sources of water supply and to prevent any act likely to diminish or injure the said supply.

High water marks, analysis of water, etc.

**45.** The minister may from time to time authorise the establishing in rivers, streams, lakes and other waters water gauges for computing the approximate volume and discharge of waters, the placing of high water marks on rivers and streams, lakes and other waters when in flood, the taking of steps for securing analyses of the water of rivers, streams, lakes and other waters and the adopting of such other measures and proceedings for promoting the beneficial use of water and for controlling and regulating the diversion and the application thereof as he finds necessary and expedient and as are consistent with the provisions of this Act.

Expropriation of works by Government

**46.** The Governor in Council may if in the public interest it is at any time deemed advisable so to do take over and operate or otherwise dispose of the works of any licensee authorised under this Act:

Proviso

Provided that compensation shall be paid for such works at their value, such value to be ascertained by reference to the exechequer court or by arbitration, one abritrator to be appointed by the Governor in Council, the second by the licensee and the third by the two so appointed or in case these cannot agree as to the third arbitrator by the exchequer court; and in estimating such value the court or the arbitrators may take into account the expenditure of the licensee and interest on such expenditure and the value of his property, works and business:

Proviso

Provided also that no person who at such date is using the water of the said works shall be deprived of the quantity of water he is entitled to:

Proviso

Provided further that in any such case the Governor in Council shall have due regard to the claims to consideration of any persons who have prepared or have in course of preparation any land to be supplied with water by the works taken over.

Bylaws of company

**47.** The bylaws and regulations of companies operating under this Act shall not contain anything contrary to the true intent and meaning of this Act and shall be subject to revision and approval by the minister and no tariff of charges for water furnished by any licensee shall come into operation until it has been approved by the minister.

Issue of bonds by company

**48.** Any company authorised under this Act may issue bonds, debentures or other securities to the amount of its subscribed capital or double the amount of its paid-up capital whichever is the smaller amount.

Acquisition of lands by company

**49.** Any company authorised under this Act may acquire land by purchase or lease for improvement by irrigation and shall dispose thereof within fifteen years after its acquisition, otherwise such land shall revert to the crown; excepting however such lands as are actually under cultivation or are being used for farming, gardening, stock-raising, dairying, horticulture, tree-planting and forestry:

Exceptions

Provided that the lands so excepted do not comprise more than ten per cent. of the total area of land brought under irrigation by the company.

Company may construct telegraph and telephone lines, etc.

**50.** Any company authorised under this Act may for the purpose of its undertaking construct or acquire electric, telegraph and telephone lines or any other contrivances for the transmission of messages through or along wires, rods, tubes or other appliances and may acquire any land necessary for the construction and operation of such lines or contrivances and the lands necessary to be taken and acquired for this purpose may be acquired under the provisions of section 21 of this Act.

General power of minister

**51.** The minister may:

Define the manner in which the measure of water shall be arrived at;

Define the duty of water according to locality and soil;

Define the portion of the year during which water shall be supplied for irrigation;

Fix the fee or charge to be paid for licenses issued under this Act, which fees or charges may be varied according to the capital employed or volume of water diverted;

Regulate the extent of diversion from rivers, streams, lakes or other waters;

Regulate the passage of logs, timber and other products of the forests through or over any dams or other works erected in rivers, streams, lakes and other waters under the authority of this Act;

Regulate from time to time the water rates which may be charged by licensees and the publication of tariff of rates;

Prescribe forms to be used in proceedings under this Act;

Impose penalties for violations of any regulation made under the authority of this Act, which penalties shall in no case exceed a fine of two hundred dollars or three months imprisonment or both;

Regulate the manner in which water is to be supplied to persons entitled thereto, whether continuously or at stated intervals or under both systems;

Authorise some person or officer, whose decision shall be final and without appeal, to decide in cases of dispute as to what constitutes surplus water as mentioned in this Act;

Make such orders as are deemed necessary from time to time to carry out the provisions of this Act according to their true intent or to meet any cases which arise and for which no provision is made in this Act; and further make any regulations which are considered necessary to give the provisions of this Act full effect.

Publication of regulations

**52.** All regulations made and forms prescribed by the minister under this Act shall be published in *The Canada Gazette* and shall be laid before both Houses of Parliament within the first fifteen days of the session next after the date thereof.

Application of Act to companies now existing

**53.** Any companies already formed to promote irrigation shall be subject to all the provisions of this Act except so far as the powers mentioned in section 48 are concerned.

Exemption

**54.** The provisions of section 41, 48 and 49 of this Act shall not apply to any irrigation district incorporated under an Ordinance of the North-West Territories.

Repeal

**55.** *The North-West Irrigation Act,* being chapter 30 of the Statutes of 1894 and chapter 33 of the Statutes of 1895 in amendment thereof are hereby repealed.

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# THE NORTH-WEST IRRIGATION ACT.

## AMENDMENT.

### An Act to amend The North-West Irrigation Act 1898.

4-5 Ed. VII c. 26
20 July, 1905

[*Assented to July 20, 1905.*]

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

**1.** Upon the establishment of a province in any portion of the North-West Territories the Governor in Council may by Order make provision for the administration of *The North-West Irrigation Act 1898* within such province and for the appointment of such officers and persons and the designation of such places for the filing or deposit of applications, memorials, maps, plans, books of reference and other documents and things and for the recording of licenses and for the designation of such other places as are deemed necessary for the purposes of such administration.

(2) Any such order shall be published in *The Canada Gazette.*

# APPENDIX E.

## THE SASKATCHEWAN ACT.

4-5 Ed. VII
c. 42
20 July, 1905

### An Act to establish and provide for the Government of the Province of Saskatchewan.

[*Assented to July 20, 1905.*]

Preamble

WHEREAS in and by *The British North America Act 1871*, being chapter 28 of the Acts of the Parliament of the United Kingdom passed in the session thereof held in the 34th and 35th years of the reign of her late Majesty Queen Victoria it is enacted that the Parliament of Canada may from time to time establish new provinces in any territories forming for the time being part of the Dominion of Canada, but not included in any province thereof, and may at the time of such establishment make provision for the constitution and administration of any such province and for the passing of laws for the peace, order and good government of such province and for its representation in the said Parliament of Canada;

And whereas it is expedient to establish as a province the territory hereinafter described and to make provision for the government thereof and the representation thereof in the Parliament of Canda:

Therefore his Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title

**1.** This Act may be cited as "*The Saskatchewan Act.*"

Province of Saskatchewan formed its boundaries

**2.** The territory comprised within the following boundaries, that is to say,—commencing at the intersection of the international boundary dividing Canada from the United States of America by the west boundary of the province of Manitoba, thence northerly along the said west boundary of the province of Manitoba to the north-west corner of the said province of Manitoba; thence continuing northerly along the centre of the road allowance between the twenty-ninth and thirtieth ranges west of the principal meridian in the system of Dominion lands surveys, as the said road allowance may hereafter be defined in accordance with the said system, to the second meridian in the said system of Dominion lands surveys as the same may hereafter be defined in accordance with the said system; thence northerly along the said second meridian to the sixtieth degree of north latitude; thence westerly along the parallel of the sixtieth degree of north latitude to the fourth meridian in the said system of Dominion lands surveys as the same may be hereafter defined in accordance with the said system; thence southerly along the said fourth meridian to the said international boundary dividing Canada from the United States of America; thence easterly along the said international boundary to the point of commencement,—is hereby established as a province of the Dominion of Canada, to be called and known as the province of Saskatchewan.

**B.N.A. Acts 1867 to 1886 to apply**

3. The provisions of *The British North America Acts* 1867 to 1886 shall apply to the province of Saskatchewan in the same way and to the like extent as they apply to the provinces heretofore comprised in the Dominion, as if the said province of Saskatchewan had been one of the provinces originally united, except in so far as varied by this Act and except such provisions as are in terms made, or by reasonable intendment may be held to be, specially applicable to or only to affect one or more and not the whole of the said provinces.

**Representation in the Senate**

4. The said province shall be represented in the Senate of Canada by four members: Provided that such representation may, after the completion of the next decennial census, be from time to time increased to six by the Parliament of Canada.

**Representation in the House of Commons**

5. The said province and the province of Alberta shall, until the termination of the Parliament of Canada existing at the time of the first readjustment hereinafter provided for, continue to be represented in the House of Commons as provided by chapter 60 of the Statutes of 1903, each of the electoral districts defined in that part of the schedule to the said Act which relates to the North-West Territories, whether such district is wholly in one of the said provinces, or partly in one and partly in the other of them, being represented by one member

**Readjustment after next quinquennial census**

6. Upon the completion of the next quinquennial census for the said province the representation thereof shall forth-

with be readjusted by the Parliament of Canada in such manner that there shall be assigned to the said province such a number of members as will bear the same proportion to the number of its population ascertained at such quinquennial census as the number sixty-five bears to the number of the population of Quebec as ascertained at the then last decennial census; and in the computation of the number of members for the said province a fractional part not exceeding one-half of the whole number requisite for entitling the province to a member shall be disregarded and a fractional part exceeding one-half of that number shall be deemed equivalent to the whole number, and such readjustment shall take effect upon the termination of the parliament then existing.

Subsequent readjustment

(2) The representation of the said province shall thereafter be readjusted from time to time according to the provisions of section 51 of *The British North America Act 1867.*

Election of members of House of Commons

**7.** Until the Parliament of Canada otherwise provides the qualifications of voters for the election of members of the House of Commons and the proceedings at and in connection with elections of such members shall, *mutatis mutandis,* be those prescribed by law at the time this Act comes into force with respect to such elections in the North-West Territories.

Executive Council

**8.** The executive council of the said province shall be composed of such persons under such designations as the Lieutenant Governor from time to time thinks fit.

Seat of government

**9.** Unless and until the Lieutenant Governor in Council of the said province otherwise directs by proclamation under the Great Seal the seat of government of the said province shall be at Regina.

Powers of Lieutenant Governor and Council

**10.** All powers, authorities and functions which under any law were before the coming into force of this Act vested in or exercisable by the Lieutenant Governor of the North-West Territories with the advice or with the advice and consent of the executive council thereof or in conjunction with that council or with any member or members thereof or by the said Lieutenant Governor individually shall so far as they are capable of being exercised after the coming into force of this Act in relation to the government of the said province be vested in and shall or may be exercised by the Lieutenant Governor of the said province, with the advice or with the advice and consent of or in conjunction with the executive council of the said province or any member or members thereof or by the Lieutenant Governor individually as the case requires subject nevertheless to be abolished or altered by the Legislature of the said province.

**11.** The Lieutenant Governor in Council shall as soon as may be after this Act comes into force adopt and provide a Great Seal of the said province and may from time to time change such seal. **Great seal**

**12.** There shall be a Legislature for the said province consisting of the Lieutenant Governor and one House to be styled the Legislative Assembly of Saskatchewan. **Legislature**

**13.** Until the said Legislature otherwise provides the Legislative Assembly shall be composed of twenty-five members to be elected to represent the electoral divisions defined in the schedule to this Act. **Legislative Assembly**

**14.** Until the said Legislature otherwise determines all the provisions of the law with regard to the constitution of the Legislative Assembly of the North-West Territories and the election of members thereof shall apply, *mutatis mutandis*, to the Legislative Assembly of the said province and the election of members thereof respectively. **Election of members of Assembly**

**15.** The writs for the election of the members of the first Legislative Assembly of the said province shall be issued by the Lieutenant Governor and made returnable within six months after this Act comes into force. **Writs for first election**

**16.** All laws and all orders and regulations made thereunder so far as they are not inconsistent with anything contained in this Act or as to which this Act contains no provision intended as a substitute therefor and all courts of civil and criminal jurisdiction and all commissions, powers, authorities and functions and all officers and functionaries, judicial, administrative and ministerial existing immediately before the coming into force of this Act in the territory hereby established as the province of Saskatchewan shall continue in the said province as if this Act and *The Alberta Act* had not been passed; subject nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada or by the Legislature of the said province according to the authority of the Parliament or of the said Legislature: **Laws, courts and officers, continued**

**Proviso**

Provided that all powers, authorities and functions which under any law, order or regulation were before the coming into force of this Act vested in or exercisable by any public officer or functionary of the North-West Territories shall be vested in and exercisable in and for the said province by like public officers and functionaries of the said province when appointed by competent authority.

**Province may abolish Supreme Court of N.W.T.**

(2) The Legislature of the province may for all purposes affecting or extending to the said province abolish the supreme court of the North-West Territories and the offices both judicial and ministerial thereof and the jurisdiction, powers and authority belonging or incident to the said court:

**Proviso**

Provided that if upon such abolition the Legislature constitutes a superior court of criminal jurisdiction the procedure in criminal matters then obtaining in respect of the supreme court of the North-West Territories shall until otherwise provided by competent authority continue to apply to such superior court and that the Governor in Council may at any time and from time to time declare all or any part of such procedure to be inapplicable to such superior court.

**As to certain corporations in N.W.T.**

(3) All societies or associations incorporated by or under the authority of the Legislature of the North-West Territories existing at the time of the coming into force of this Act which include within their objects the regulation of the practice of or the right to practise any profession or trade in the North-West Territories, such as the legal or the medical profession, dentistry, pharmaceutical chemistry and the like, shall continue subject however to be dissolved and abolished by order of the Governor in Council and each of such societies shall have power to arrange for and effect the payment of its debts and liabilities and the division, disposition or transfer of its property.

**Joint stock companies**

(4) Every joint stock company lawfully incorporated by or under the authority of any Ordinance of the North-West Territories shall be subject to the legislative authority of the province of Saskatchewan if:

(*a*) The head office or the registered office of such company is at the time of the coming into force of this Act situate in the province of Saskatchewan; and

(*b*) The powers and objects of such company are such as might be conferred by the Legislature of the said province and not expressly authorised to be executed in any part of the North-West Territories beyond the limits of the said province.

Education

**17.** Section 93 of *The British North America Act 1867* shall apply to the said province with the substitution for paragraph (1) of the said section 93 of the following paragraph:

1. Nothing in any such law shall prejudicially affect any right or privilege with respect to separate schools which any class of persons have at the date of the passing of this Act, under the terms of chapters 29 and 30 of the Ordinances of the North-West Territories, passed in the year 1901 or with respect to religious instruction in any public or separate school as provided for in the said Ordinances.

(2) In the appropriation by the Legislature or distribution by the government of the province of any moneys for the support of schools organised and carried on in accordance with the said chapter 29 or any Act passed in amendment thereof or in substitution therefor, there shall be no discrimination against schools of any class described in the said chapter 29.

(3) Where the expression "by law" is employed in paragraph (3) of the said section 93 is shall be held to mean the law as set out in the said chapters 29 and 30; and where the expression "at the union" is employed in the said paragraph (3) it shall be held to mean the date at which this Act comes into force.

Subsidy to province

**18.** The following amounts shall be allowed as an annual subsidy to the province of Saskatchewan and shall be paid by the government of Canada by half-yearly instalments in advance to the said province, that is to say:

For government

(*a*) For the support of the government and Legislature, fifty thousand dollars;

In proportion to population

(*b*) On an estimated population of two hundred and fifty thousand, at eighty cents per head, two hundred thousand dollars, subject to be increased as hereinafter mentioned, that is to say: A census of the said province shall be taken in every fifth year reckoning from the general census of one thousand nine hundred and one and an approximate estimate of the population shall be made at equal intervals of time between each quinquennial and decennial census; and whenever the population by such census or estimate exceeds two hundred and fifty thousand, which shall be the minimum on which the said allowance shall be calculated, the amount of the said allowance shall be increased accordingly and so on until the population has reached eight hundred thousand souls.

Annual payment to province

**19.** Inasmuch as the said province is not in debt it shall be entitled to be paid and to receive from the government of Canada by half-yearly payments in advance an annual sum of four hundred and five thousand three hundred and seventy-five dollars, being the equivalent of interest at the rate of five per cent. per annum on the sum of eight million one hundred and seven thousand five hundred dollars.

**Compensation to province for public lands**

**20.** Inasmuch as the said province will not have the public land as a source of revenue, there shall be paid by Canada to the province by half-yearly payments in advance an annual sum based upon the population of the province as from time to time ascertained by the quinquennial census thereof, as follows:

The population of the said province being assumed to be at present two hundred and fifty thousand, the sum payable until such population reaches four hundred thousand shall be three hundred and seventy-five thousand dollars;

Thereafter, until such population reaches eight hundred thousand the sum payable shall be five hundred and sixty-two thousand five hundred dollars;

Thereafter, until such population reaches one million two hundred thousand the sum payable shall be seven hundred and fifty thousand dollars;

And thereafter the sum payable shall be one million one hundred and twenty-five thousand dollars.

**Further compensation**

(2) As an additional allowance in lieu of public lands there shall be paid by Canada to the province annually by half-yearly payments in advance for five years from the time this Act comes into force to provide for the construction of necessary public buildings the sum of ninety-three thousand seven hundred and fifty dollars.

**Property in lands, etc.**

**21.** All crown lands, mines and minerals and royalties incident thereto and the interest of the crown in the waters within the province under *The North-West Irrigation Act 1898* shall continue to be vested in the crown and administered by the government of Canada for the purposes of Canada subject to the provisions of any Act of the Parliament of Canada with respect to road allowances and roads or trails in force immediately before the coming into force of this Act, which shall apply to the said province with the substitution therein of the said province for the North-West Territories.

**Division of assets and liabilities between Alberta and Saskatchewan**

**22.** All properties and assets of the North-West Territories shall be divided equally between the said province and the province of Alberta and the two provinces shall be jointly and equally responsible for all debts and liabilities of the North-West Territories:

**Arbitration**

Provided that if any difference arises as to the division and adjustment of such properties, assets, debts and liabilities such difference shall be referred to the arbitrament of three arbitrators, one of whom shall be chosen by the Lieutenant Governor in Council of each province and the third by the Governor in Council. The selection of such arbitrators shall not be made until the Legislatures of the provinces have met and the arbitrator chosen by Canada shall not be a resident of either province.

**Rights of H.B. Co.**

**23.** Nothing in this Act shall in any way prejudice or affect the rights or properties of the Hudson's Bay Company as contained in the conditions under which that company surrendered Rupert's Land to the crown.

**Provision as to C.P.R.**

**24.** The powers hereby granted to the said province shall be exercised subject to the provisions of section 16 of the contract set forth in the schedule to chapter 1 of the Statutes of 1881, being *An Act respecting the Canadian Pacific Railway Company.*

**Commencement of Act**

**25.** This Act shall come into force on the first day of September, one thousand nine hundred and five.

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## SCHEDULE.

(*Section 13.*)

**Electoral divisions**

The province of Saskatchewan shall be divided into twenty-five electoral divisions which shall respectively comprise and consist of the parts and portions of the province hereinafter described.

In the following descriptions where "meridians between ranges" and "boundaries of townships" or "boundaries of sections" are referred to as the boundaries of electoral divisions these expressions mean the meridians, boundaries of townships or boundaries of sections, as the case may be, in accordance with the Dominion lands system of surveys and include the extension thereof in accordance with the said system.

### *Names and Descriptions of Divisions.*

**Souris**

(1) The electoral division of Souris, bounded as follows:

Commencing at the south-east corner of the said province of Saskatchewan; thence northerly along the east boundary of the said province of Saskatchewan to the north boundary of the sixth township; thence westerly along the said north boundary of the sixth townships to the meridian between the tenth and eleventh ranges west of the second meridian; thence southerly along the said meridian between the tenth and eleventh ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

**Cannington**

(2) The electoral division of Cannington bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the sixth township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the eleventh township; thence westerly along the said north boundary of the eleventh townships to the meridian between the tenth and eleventh ranges west of the second meridian; thence southerly along the said meridian between the tenth and eleventh ranges to the north boundary of the sixth township; thence easterly along the said north boundary of the sixth townships to the point of commencement.

**Moosomin**

(3) The electoral division of Moosomin, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the eleventh township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the nineteenth township; thence westerly along the said north boundary of the nineteenth townships to the second meridian; thence southerly along the said second meridian to the north boundary of the eleventh township; thence easterly along the said north boundary of the eleventh townships to the point of commencement.

**Whitewood**

(4) The electoral division of Whitewood, bounded as follows:

Commencing at the second meridian where it is intersected by the north boundary of the eleventh township; thence northerly along the said second meridian to the north boundary of the twentieth township; thence westerly along the said north boundary of the twentieth townships to the meridian between the fourth and fifth ranges west of the second meridian; thence southerly along the said meridian between the fourth and fifth ranges to the north boundary of the eleventh township; thence easterly along the said north boundary of the eleventh townships to the point of commencement.

(5) The electoral division of Grenfell, bounded as follows: **Grenfell** Commencing at the meridian between the fourth and fifth ranges west of the second meridian where it is intersected by the north boundary of the eleventh township; thence northerly along the said meridian between the fourth and fifth ranges to the north boundary of the twentieth township; thence westerly along the said north boundary of the twentieth townships to the meridian between the sixth and seventh ranges west of the second meridian; thence northerly along the said meridian between the sixth and seventh ranges to the north boundary of the twenty-first township; thence westerly along the said north boundary of the twenty-first township to the meridian between the seventh and eighth ranges west of the second meridian; thence northerly along the said meridian between the seventh and eighth ranges to the north boundary of the twenty-second township; thence westerly along the said north boundary of the twenty-second township to the meridian between the eighth and ninth ranges west of the second meridian; thence southerly along the said meridian between the eighth and ninth ranges to the north boundary of the eleventh township; thence easterly along the said north boundary of the eleventh townships to the point of commencement.

(6) The electoral division of Wolseley, bounded as follows: **Wolseley** Commencing at the meridian between the eighth and ninth ranges west of the second meridian where it is intersected by the north boundary of the eleventh township; thence northerly along the said meridian between the eighth and ninth ranges to the north boundary of the twenty-second township; thence westerly along the said north boundary of the twenty-second townships to the meridian between the tenth and eleventh ranges west of the second meridian; thence southerly along the said meridian between the tenth and eleventh ranges to the north boundary of the nineteenth township; thence westerly along the said north boundary of the nineteenth township to the meridian between the eleventh and twelfth ranges west of the second meridian; thence southerly along the said meridian between the eleventh and twelfth ranges to the north boundary of the eleventh township; thence easterly along the said north boundary of the eleventh townships to the point of commencement.

(7) The electoral division of Saltcoats, bounded as follows: **Saltcoats** Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the nineteenth township; thence northerly along the said

eastern boundary of the province of Saskatchewan to the north boundary of the thirty-fourth township; thence westerly along the said north boundary of the thirty-fourth townships to the meridian between the third and fourth ranges west of the second meridian; thence southerly along the said meridian between the third and fourth ranges to the north boundary of the twentieth township; thence easterly along the said north boundary of the twentieth townships to the second meridian; thence southerly along the said second meridian to the north boundary of the nineteenth township; thence easterly along the said north boundary of the nineteenth townships to the point of commencement.

**Yorkton**

(8) The electoral division of Yorkton, bounded as follows:

Commencing at the meridian between the third and fourth ranges west of the second meridian where it is intersected by the north boundary of the twentieth township; thence northerly along the said meridian between the third and fourth ranges to the north boundary of the thirty-fourth township; thence westerly along the said north boundary of the thirty-fourth townships to the meridian between the tenth and eleventh ranges west of the second meridian; thence southerly along the said meridian between the tenth and eleventh ranges to the north boundary of the twenty-second township; thence easterly along the said north boundary of the twenty-second townships to the meridian between the seventh and eighth ranges west of the second meridian; thence southerly along the said meridian between the seventh and eighth ranges to the north boundary of the twenty-first township; thence easterly along the said north boundary of the twenty-first township to the meridian between the sixth and seventh ranges west of the second meridian; thence southerly along the said meridian between the sixth and seventh ranges to the north boundary of the twentieth township; thence easterly along the said north boundary of the twentieth townships to the point of commencement.

**South Qu'Appelle**

(9) The electoral division of South Qu'Appelle, bounded as follows:

Commencing at the meridian between the tenth and eleventh ranges west of the second meridian where it is intersected by the southern boundary of the said province of Saskatchewan: thence northerly along the said meridian between the tenth and eleventh ranges to the north boundary of the eleventh township; thence westerly along the said north boundary of the eleventh township to the meridian between the eleventh and twelfth ranges west of the second meridian; thence northerly along the said meridian between the eleventh and twelfth ranges to the north boundary of the nineteenth township; thence westerly along the said north boundary of the nineteenth townships to the meridian between the sixteenth and seventeenth ranges west of the second meridian; thence southerly along the said meridian between the sixteenth and seventeenth ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

(10) The electoral division of North Qu'Appelle, bounded as follows: North Qu'Appelle

Commencing at the meridian between the tenth and eleventh ranges west of the second meridian where it is intersected by the north boundary of the nineteenth township; thence northerly along the said meridian between the tenth and eleventh ranges to the north boundary of the thirty-fourth township; thence westerly along the said north boundary of the thirty-fourth townships to the meridian between the sixteenth and seventeenth ranges west of the second meridian; thence southerly along the said meridian between the sixteenth and seventeenth ranges to the north boundary of the nineteenth township; thence easterly along the said north boundary of the nineteenth townships to the point of commencement.

(11) The electoral division of South Regina, bounded as follows: South Regina

Commencing at the meridian between the sixteenth and seventeenth ranges west of the second meridian where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the sixteenth and seventeenth ranges to where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence westerly along the said centre of the track of the main line of the Canadian Pacific Railway to where it is first intersected by the north boundary of the seventeenth township; thence westerly along the said north boundary of the seventeenth townships to the meridian between the twenty-third and twenty-fourth ranges west of the second meridian; thence southerly along the said meridian between the twenty-third and twenty-fourth ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement; excepting and reserving out of the said electoral division of

South Regina all that portion thereof comprised within the limits of the city of Regina as incorporated by Ordinance of the North-West Territories.

**Regina City** (12) The electoral division of Régina City, comprising the city of Regina as incorporated by Ordinance of the North-West Territories.

**Lumsden** (13) The electoral division of Lumsden, bounded as follows:

Commencing at the meridian between the sixteenth and seventeenth ranges west of the second meridian where it is intersected by the centre of the track of the main line of the Canadian Pacific Railway; thence northerly along the said meridian between the sixteenth and seventeenth ranges to the north boundary of the thirty-fourth township; thence westerly along the said north boundary of the thirty-fourth townships to the meridian between the twenty-third and twenty-fourth ranges west of the second meridian; thence southerly along the said meridian between the twenty-third and twenty-fourth ranges to the point where it is first intersected by the east shore of Last Mountain lake; thence southerly along the said east shore of the said lake to its intersection with the meridian between the twenty-third and twenty-fourth ranges in township twenty-four; thence southerly along the said meridian between the twenty-third and twenty-fourth ranges to the north boundary of the seventeenth township; thence easterly along the said north boundary of the seventeenth townships to where it is first intersected by the centre of the track of the main line of the Canadian Pacific Raiway; thence easterly along the said centre of the track of the main line of the Canadian Pacific Railway to the point of commencement.

**Moose Jaw** (14) The electoral division of Moose Jaw, bounded as follows:

Commencing at the meridian between the twenty-third and twenty-fourth ranges west of the second meridian where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the twenty-third and twenty-fourth ranges to the point where the said meridian intersects the east shore of Last Mountain lake in township twenty-four; thence northerly along the said east shore of Last Mountain lake to its intersection with the northern boundary of township twenty-six; thence westerly along the said north boundary of the twenty-sixth townships to the meridian between the seventh and eighth ranges west of the third meridian; thence southerly along the said meridian between the seventh and eighth ranges to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement; excepting and reserving out of the said electoral division of Moose Jaw all that portion thereof comprised within the limits of the city of Moose Jaw as incorporated by Ordinance of the North-West Territories.

**Moose Jaw City**

(15) The electoral division of Moose Jaw City, comprising the city of Moose Jaw as incorporated by Ordinance of the North-West Territories.

**Maple Creek**

(16) The electoral division of Maple Creek, bounded as follows:

Commencing at the meridian between the seventh and eighth ranges west of the third meridian where it is intersected by the southern boundary of the said province of Saskatchewan; thence northerly along the said meridian between the seventh and eight ranges to the north boundary of the twenty-sixth township; thence westerly along the said north boundary of the twenty-sixth townships to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the southern boundary of the said province of Saskatchewan; thence easterly along the said southern boundary of the province of Saskatchewan to the point of commencement.

**Humboldt**

(17) The electoral division of Humboldt, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the thirty-fourth township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north boundary of the forty-second township; thence westerly along the said north boundary of the forty-second townships to the meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian; thence southerly along the said meridian between the twenty-fourth and twenty-fifth ranges to the north boundary of the thirty-fourth township; thence easterly along the said north boundary of the thirty-fourth townships to the point of commencement.

**Kinistino**

(18) The electoral division of Kinistino, bounded as follows:

Commencing at the intersection of the eastern boundary of the said province of Saskatchewan by the north boundary of the forty-second township; thence northerly along the said eastern boundary of the province of Saskatchewan to the north-east corner of the said province; thence westerly along the northern boundary of the said province of Saskatchewan to the meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian; thence southerly along the said meridian between the twenty-fourth and twenty-fifth ranges to the north limit of the Indian Reserve Chief Muskoday; thence easterly along the said north limit of the Indian Reserve Chief Muskoday to the South Saskatchewan river thence along the South Saskatchewan river up stream to the north boundary of the forty-fifth township; thence easterly along the said north boundary of the forty-fifth townships to meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian; thence southerly along the said meridian between the twenty-fourth and twenty-fifth ranges to the north boundary of the forty-second township; thence easterly along the said north boundary of the forty-second townships to the point of commencement.

Prince Albert

(19) The electoral division of Prince Albert, bounded as follows:

Commencing at the meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian where it is intersected by the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the fifth and sixth ranges west of the third meridian; thence southerly along the said meridian between the fifth and sixth ranges to the north boundary of the forty-seventh township; thence easterly along the said north boundary of the forty-seventh townships to the meridian between the first and second ranges west of the third meridian; thence southerly along the said meridian between the first and second ranges to the north boundary of the forty-sixth township; thence easterly along the said north boundary of the forty-sixth townships to the third meridian; thence southerly along the said third meridian to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north limit of the Indian Reserve Chief Muskoday; thence westerly along the said north limit of the Indian Reserve Chief Muskoday to the meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian; thence northerly along the said meridian between the twenty-fourth and twenty-fifth ranges to the point of commencement; excepting and reserving out of the said electoral division all those portions described as follows:

Firstly, the city of Prince Albert as incorporated by Ordinance of the North-West Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert Settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert Settlement; and

Thirdly, fractional sections 13 and 24 in the forty-eighth township in the twenty-sixth range west of the second meridian.

(20) The electoral division of Prince Albert City, comprising: Prince Albert City

Firstly, the city of Prince Albert as incorporated by Ordinance of the North-West Territories; and

Secondly, those portions of lots 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81 and 82 of the Prince Albert Settlement which lie to the south of the said city of Prince Albert as incorporated and that portion of the Hudson Bay reserve outside of and adjoining the said city on the east and south and which lies to the north of the production in a straight line easterly of the southern boundary of the said lot 82 in the Prince Albert Settlement; and

Thirdly, fractional sections 13 and 24 in the forty-eighth township in the twenty-sixth range west of the second meridian.

(21) The electoral division of Batoche, bounded as follows: Batoche

Commencing at the meridian between the twenty-third and twenty-fourth ranges west of the second meridian where it is intersected by the north boundary of the twenty-sixth township; thence northerly along the said meridian between the twenty-third and twenty-fourth ranges to the north boundary of the thirty-fourth township; thence westerly along the said north boundary of the thirty-fourth township to the meridian between the twenty-fourth and twenty-fifth ranges west of the second meridian; thence northerly along the said meridian between the twenty-fourth and twenty-fifth ranges to the north boundary of the forty-fifth township; thence westerly along the said north boundary of the forty-fifth townships to where it first intersects the south Saskatchewan river; thence along the said South Saskatchewan river up stream to the north boundary of the fortieth township; thence easterly along the said north boundary of the fortieth townships to the meridian between the first and second ranges west of the third meridian; thence southerly along the said meridian between the first and second ranges to the north boundary of the twenty-sixth township; thence easterly along the said north boundary of the twenty-sixth townships to the point of commencement.

Saskatoon

(22) The electoral division of Saskatoon, bounded as follows:

Commencing at the meridian between the first and second ranges west of the third meridian where it is intersected by the north boundary of the twenty-sixth township; thence northerly along the said meridian between the first and second ranges to the north boundary of the fortieth township; thence westerly along the said north boundary of the fortieth township to the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the north boundary of the forty-first township; thence westerly along the said north boundary of the forty-first townships to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the meridian between the thirteenth and fourteenth ranges west of the third meridian; thence southerly along the said meridian between the thirteenth and fourteenth ranges to the north boundary of the twenty-sixth township; thence easterly along the said north boundary of the twenty sixth townships to the point of commencement.

Rosthern

(23) The electoral division of Rosthern, bounded as follows:

Commencing at the north boundary of the forty-first township where it is intersected by the South Saskatchewan river; thence along the said South Saskatchewan river down stream to the third meridian; thence northerly along the said third meridian to the north boundary of the forty-sixth township; thence westerly along the said north boundary of the forty-sixth township to the meridian between the first and second ranges west of the third meridian; thence northerly along the said meridian between the first and second ranges to the north boundary of the forty-seventh township; thence westerly along the said north boundary of the forty-seventh townships to the meridian between the fifth and sixth ranges west of the third meridian; thence southerly along the said meridian between the fifth and sixth ranges to the North Saskatchewan river; thence along the said North Saskatchewan river up stream to the north boundary of the forty-first township; thence easterly along the said north boundary of the forty-first townships to the point of commencement.

Redberry

(24) The electoral division of Redberry, bounded as follows:

Commencing at the meridian between the fifth and sixth ranges west of the third meridian where it is intersected by the North Saskatchewan river; thence northerly along the said meridian between the fifth and sixth ranges to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the meridian between the thirteenth and fourteenth ranges west of the third meridian; thence southerly along the said meridian between the thirteenth and fourteenth ranges to the North Saskatchewan river; thence along the said North Saskatchewan river down stream to the point of commencement.

Battleford

(25) The electoral division of Battleford, bounded as follows:

Commencing at the meridian between the thirteenth and fourteenth ranges west of the third meridian where it is intersected by the north boundary of the twenty-sixth township; thence northerly along the said meridian between the thirteenth and fourteenth ranges, to the northern boundary of the said province of Saskatchewan; thence westerly along the said northern boundary of the province of Saskatchewan to the western boundary of the said province of Saskatchewan; thence southerly along the said western boundary of the province of Saskatchewan to the north boundary of the twenty-sixth township; thence easterly along the said north boundary of the twenty-sixth townships to the point of commencement.

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# APPENDIX F.

## THE SASKATCHEWAN AND ALBERTA ROADS ACT.

An Act respecting Roads and Road Allowances in the Provinces of Saskatchewan and Alberta.

4-5 Ed. VII c 38
20 July, 1905

*[Assented to July 20, 1905.]*

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title

**1.** This Act may be cited as *"The Saskatchewan and Alberta Roads Act."*

Certain road allowances transferred to the provinces

**2.** All road allowances in townships now or hereafter surveyed and subdivided and all road allowances set out on block lines now or hereafter surveyed in the North-West Territories within the limits of the province of Saskatchewan or the province of Alberta as those provinces are defined in *The Saskatchewan Act* and *The Alberta Act* respectively, the plans of survey of which have been duly approved and the Dominion lands comprised in such road allowances shall be vested in the crown in the right of the province within which such road allowances are situate.

Survey of road or trail before transfer to province

**3.** On the minister of the interior receiving notice from the Lieutenant Governor in Council of either of the said provinces that it is desired that any public travelled road or trail in the province which existed as such prior to the subdivision of the land into sections shall be transferred to the province, the Governor in Council may authorise and direct the survey of such road or trail by a Dominion land surveyor.

Changes in location

(2) In making the survey, the surveyor may make such changes in the location of the road or trail as he deems necessary for improving it, without, however, altering its main direction.

Filing of survey to vest lands in province

**4.** The return of every such survey shall be made to the department of the interior; and upon a duplicate copy of such returns approved by the surveyor general being filed in the proper land titles office the public travelled road or trail, so far as the lands within its limits are Dominion lands, as well as the Dominion lands comprised therein shall vest in the crown in the right of the province subject to the right of any person who has acquired any interest in such lands.

Survey of new roads by province

**5.** The Lieutenant Governor in Council of either of the said provinces may cause to be surveyed and marked on the ground by Dominion land surveyor in accordance with the system of Dominion lands survey obtaining in the locality, such new roads as are from time to time deemed necessary to aid in the development of any locality which cannot be conveniently served by existing road allowances or other public highways; such new roads to be of the width prescribed for the locality by the manual of instructions for the survey of Dominion lands.

**6.** The returns of every such last-mentioned survey shall be made to the department of the interior and upon a duplicate copy of such returns, approved by the surveyor general, being filed in the proper land titles office the road or roads shown thereon to have been surveyed as aforesaid, so far as the lands within their limits are Dominion lands and the Dominion lands comprised therein, shall vest in the crown in the right of the province, subject to the right of any person who has acquired any interest in such lands

**Filing of returns of survey to vest lands in province**

**7.** All road allowances, public travelled roads or trails and new roads in either of the said provinces hitherto transferred to or for the use of the North-West Territories or subjected to the direction, management or control of the Lieutenant Governor in Council of the North-West Territories so far as the lands within their limits are Dominion lands and the Dominion lands comprised therein shall be vested in the crown in the right of the provinces in which they are situate.

**Road allowances and roads transferred from N.W.T. to provinces**

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